



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0233

Introduced 1/14/2005, by Rep. Joseph M. Lyons

SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act. Provides that certain provisions concerning transfers to the General Revenue Fund do not apply to any fund established under the Illinois Credit Union Act, the Illinois Banking Act, the Illinois Savings and Loan Act of 1985, or the Savings Bank Act. Limits transfers and expenditures from those funds to the purposes specified in those Acts. Provides that no allocation and transfer of additional amounts generated by certain new and increased fees shall be made with respect to or from the Credit Union Fund. Amends the Illinois Banking Act, the Illinois Savings and Loan Act of 1985, and the Illinois Credit Union Act. With respect to the Bank and Trust Company Fund, the Savings and Residential Finance Regulatory Fund, and the Credit Union Fund: (i) exempts the moneys in each of those Funds from assignment or transfer under any other law or executive order for any purpose other than for unappropriated administrative expenses in an amount that does not exceed 2% of the total annual regulatory fees paid into the Fund and (ii) provides that the moneys in each fund remain the property of and shall be held in trust for the financial institutions upon from whom the moneys were collected. Amends the Illinois Banking Act. Provides that a credit to State Banks of unexpended funds is a continuing property interest of the State banks in those unexpended funds. Amends the Illinois Credit Union Act. Provides that the regulatory fee paid by a credit union to the Department of Financial and Professional Regulation shall be the lesser of (i) the rate pursuant to the regulatory fee schedule or (ii) a rate established in a manner proportionately consistent with the rates in the regulatory fee schedule and that would fund the actual administrative and operational expenses of the Credit Union Section. Increases rates in the regulatory fee schedule for credit unions with total assets over \$5,000,000. Requires the Director of Financial and Professional Regulation to adjust the fee schedule for the next fiscal year. Provides that the fee schedule may be increased by no more than 5% annually if necessary to defray the actual (now, estimated) administrative and operational expenses of the Credit Union Section (now, the Department). Prohibits any increase in the fee schedule if the amount remaining in the Credit Union Fund at the end of the fiscal year is equal to or greater than 25% of the actual administrative and operational expenses for the preceding fiscal year. Requires the Director to base the regulatory fee for the next fiscal year on the credit union's total assets as of December 31 of the preceding calendar year. Beginning on July 1, 2005, requires a credit union to pay the regulatory fee in quarterly installments due and payable on the due date for the call report for the preceding quarter (now, a credit union is required to pay the regulatory fee in full no later than March 1 of each calendar year). Provides for a regulatory fee cap of \$125,000 (now, \$187,500). Effective immediately.

LRB094 05667 MKM 35716 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 State Finance Act is amended by changing
5 Sections 8h and 8j as follows:

6 (30 ILCS 105/8h)

7 Sec. 8h. Transfers to General Revenue Fund.

8 (a) Except as provided in subsection (b), notwithstanding
9 any other State law to the contrary, the Governor may, through
10 June 30, 2007, from time to time direct the State Treasurer and
11 Comptroller to transfer a specified sum from any fund held by
12 the State Treasurer to the General Revenue Fund in order to
13 help defray the State's operating costs for the fiscal year.
14 The total transfer under this Section from any fund in any
15 fiscal year shall not exceed the lesser of (i) 8% of the
16 revenues to be deposited into the fund during that fiscal year
17 or (ii) an amount that leaves a remaining fund balance of 25%
18 of the July 1 fund balance of that fiscal year. In fiscal year
19 2005 only, prior to calculating the July 1, 2004 final
20 balances, the Governor may calculate and direct the State
21 Treasurer with the Comptroller to transfer additional amounts
22 determined by applying the formula authorized in Public Act
23 93-839 ~~this amendatory Act of the 93rd General Assembly~~ to the
24 funds balances on July 1, 2003. No transfer may be made from a
25 fund under this Section that would have the effect of reducing
26 the available balance in the fund to an amount less than the
27 amount remaining unexpended and unreserved from the total
28 appropriation from that fund estimated to be expended for that
29 fiscal year. This Section does not apply to any funds that are
30 restricted by federal law to a specific use, to any funds in
31 the Motor Fuel Tax Fund, the Hospital Provider Fund, ~~or~~ the
32 Medicaid Provider Relief Fund, or the Reviewing Court

1 Alternative Dispute Resolution Fund, or to any funds to which
2 subsection (f) of Section 20-40 of the Nursing and Advanced
3 Practice Nursing Act applies. Notwithstanding any other
4 provision of this Section, for fiscal year 2004, the total
5 transfer under this Section from the Road Fund or the State
6 Construction Account Fund shall not exceed the lesser of (i) 5%
7 of the revenues to be deposited into the fund during that
8 fiscal year or (ii) 25% of the beginning balance in the fund.
9 For fiscal year 2005 through fiscal year 2007, no amounts may
10 be transferred under this Section from the Road Fund, the State
11 Construction Account Fund, the Criminal Justice Information
12 Systems Trust Fund, the Wireless Carrier Reimbursement Fund, or
13 the Mandatory Arbitration Fund.

14 In determining the available balance in a fund, the
15 Governor may include receipts, transfers into the fund, and
16 other resources anticipated to be available in the fund in that
17 fiscal year.

18 The State Treasurer and Comptroller shall transfer the
19 amounts designated under this Section as soon as may be
20 practicable after receiving the direction to transfer from the
21 Governor.

22 (b) This Section does not apply to any fund established
23 under the Community Senior Services and Resources Act, the
24 Illinois Credit Union Act, the Illinois Banking Act, the
25 Illinois Savings and Loan Act of 1985, or the Savings Bank Act.
26 The transfers from and expenditures of those funds are at all
27 times limited to the purposes specified in those Acts.

28 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
29 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
30 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; revised
31 12-1-04.)

32 (30 ILCS 105/8j)

33 Sec. 8j. Allocation and transfer of fee receipts to General
34 Revenue Fund. ~~If and only if any one or more of Senate Bills~~
35 ~~774, 841, 842, and 1903 of the 93rd General Assembly become~~

1 ~~law,~~ Notwithstanding any other law to the contrary, additional
2 amounts generated by the new and increased fees created or
3 authorized by Public Acts 93-22, 93-23, 93-24, and 93-32 ~~these~~
4 ~~amendatory Acts of the 93rd General Assembly this amendatory~~
5 ~~Act of the 93rd General Assembly and by Senate Bill 774, Senate~~
6 ~~Bill 841, and Senate Bill 842 of the 93rd General Assembly, if~~
7 ~~those bills become law,~~ shall be allocated between the fund
8 otherwise entitled to receive the fee and the General Revenue
9 Fund by the Governor's Office of Management and Budget, except
10 that no allocation and transfer shall be made with respect to
11 or from the Credit Union Fund Bureau of the Budget. In
12 determining the amount of the allocation to the General Revenue
13 Fund, the Director of the Governor's Office of Management and
14 Budget Bureau of the Budget shall calculate whether the
15 available resources in the fund are sufficient to satisfy the
16 unexpended and unreserved appropriations from the fund for the
17 fiscal year.

18 In calculating the available resources in a fund, the
19 Director of the Governor's Office of Management and Budget
20 ~~Bureau of the Budget~~ may include receipts, transfers into the
21 fund, and other resources anticipated to be available in the
22 fund in that fiscal year.

23 Upon determining the amount of an allocation to the General
24 Revenue Fund under this Section, the Director of the Governor's
25 Office of Management and Budget Bureau of the Budget may direct
26 the State Treasurer and Comptroller to transfer the amount of
27 that allocation from the fund in which the fee amounts have
28 been deposited to the General Revenue Fund; provided, however,
29 that the Director shall not direct the transfer of any amount
30 that would have the effect of reducing the available resources
31 in the fund to an amount less than the amount remaining
32 unexpended and unreserved from the total appropriation from
33 that fund for that fiscal year.

34 The State Treasurer and Comptroller shall transfer the
35 amounts designated under this Section as soon as may be
36 practicable after receiving the direction to transfer from the

1 Director of the Governor's Office of Management and Budget
2 ~~Bureau of the Budget.~~

3 (Source: P.A. 93-25, eff. 6-20-03; 93-32, eff. 6-20-03; revised
4 8-21-03.)

5 Section 10. The Illinois Banking Act is amended by changing
6 Section 48 as follows:

7 (205 ILCS 5/48) (from Ch. 17, par. 359)

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

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

20 (2) (a) The Commissioner, as often as the Commissioner
21 shall deem necessary or proper, and no less frequently than 18
22 months following the preceding examination, shall appoint a
23 suitable person or persons to make an examination of the
24 affairs of every State bank, except that for every eligible
25 State bank, as defined by regulation, the Commissioner in lieu
26 of the examination may accept on an alternating basis the
27 examination made by the eligible State bank's appropriate
28 federal banking agency pursuant to Section 111 of the Federal
29 Deposit Insurance Corporation Improvement Act of 1991,
30 provided the appropriate federal banking agency has made such
31 an examination. A person so appointed shall not be a
32 stockholder or officer or employee of any bank which that
33 person may be directed to examine, and shall have powers to
34 make a thorough examination into all the affairs of the bank

1 and in so doing to examine any of the officers or agents or
2 employees thereof on oath and shall make a full and detailed
3 report of the condition of the bank to the Commissioner. In
4 making the examination the examiners shall include an
5 examination of the affairs of all the affiliates of the bank,
6 as defined in subsection (b) of Section 35.2 of this Act, or
7 subsidiaries of the bank as shall be necessary to disclose
8 fully the conditions of the subsidiaries or affiliates, the
9 relations between the bank and the subsidiaries or affiliates
10 and the effect of those relations upon the affairs of the bank,
11 and in connection therewith shall have power to examine any of
12 the officers, directors, agents, or employees of the
13 subsidiaries or affiliates on oath. After May 31, 1997, the
14 Commissioner may enter into cooperative agreements with state
15 regulatory authorities of other states to provide for
16 examination of State bank branches in those states, and the
17 Commissioner may accept reports of examinations of State bank
18 branches from those state regulatory authorities. These
19 cooperative agreements may set forth the manner in which the
20 other state regulatory authorities may be compensated for
21 examinations prepared for and submitted to the Commissioner.

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

32 (2.5) Whenever any State bank, any subsidiary or affiliate
33 of a State bank, or after May 31, 1997, any branch of an
34 out-of-state bank causes to be performed, by contract or
35 otherwise, any bank services for itself, whether on or off its
36 premises:

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

5 (b) the bank or, after May 31, 1997, branch of the
6 out-of-state bank shall notify the Commissioner of the
7 existence of a service relationship. The notification
8 shall be submitted with the first statement of condition
9 (as required by Section 47 of this Act) due after the
10 making of the service contract or the performance of the
11 service, whichever occurs first. The Commissioner shall be
12 notified of each subsequent contract in the same manner.

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

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

27 (a) Each bank shall pay to the Commissioner a Call
28 Report Fee which shall be paid in quarterly installments
29 equal to one-fourth of the sum of the annual fixed fee of
30 \$800, plus a variable fee based on the assets shown on the
31 quarterly statement of condition delivered to the
32 Commissioner in accordance with Section 47 for the
33 preceding quarter according to the following schedule: 16¢
34 per \$1,000 of the first \$5,000,000 of total assets, 15¢ per
35 \$1,000 of the next \$20,000,000 of total assets, 13¢ per
36 \$1,000 of the next \$75,000,000 of total assets, 9¢ per

1 \$1,000 of the next \$400,000,000 of total assets, 7¢ per
2 \$1,000 of the next \$500,000,000 of total assets, and 5¢ per
3 \$1,000 of all assets in excess of \$1,000,000,000, of the
4 State bank. The Call Report Fee shall be calculated by the
5 Commissioner and billed to the banks for remittance at the
6 time of the quarterly statements of condition provided for
7 in Section 47. The Commissioner may require payment of the
8 fees provided in this Section by an electronic transfer of
9 funds or an automatic debit of an account of each of the
10 State banks. In case more than one examination of any bank
11 is deemed by the Commissioner to be necessary in any
12 examination frequency cycle specified in subsection 2(a)
13 of this Section, and is performed at his direction, the
14 Commissioner may assess a reasonable additional fee to
15 recover the cost of the additional examination; provided,
16 however, that an examination conducted at the request of
17 the State Treasurer pursuant to the Uniform Disposition of
18 Unclaimed Property Act shall not be deemed to be an
19 additional examination under this Section. In lieu of the
20 method and amounts set forth in this paragraph (a) for the
21 calculation of the Call Report Fee, the Commissioner may
22 specify by rule that the Call Report Fees provided by this
23 Section may be assessed semiannually or some other period
24 and may provide in the rule the formula to be used for
25 calculating and assessing the periodic Call Report Fees to
26 be paid by State banks.

27 (a-1) If in the opinion of the Commissioner an
28 emergency exists or appears likely, the Commissioner may
29 assign an examiner or examiners to monitor the affairs of a
30 State bank with whatever frequency he deems appropriate,
31 including but not limited to a daily basis. The reasonable
32 and necessary expenses of the Commissioner during the
33 period of the monitoring shall be borne by the subject
34 bank. The Commissioner shall furnish the State bank a
35 statement of time and expenses if requested to do so within
36 30 days of the conclusion of the monitoring period.

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

11 (a-3) After May 31, 1997, the reasonable and necessary
12 expenses of the Commissioner during examination of the
13 performance of electronic data processing services under
14 subsection (2.5) at or on behalf of branches of
15 out-of-state banks shall be borne by the out-of-state
16 banks, unless those expenses are borne by the state
17 regulatory authorities that chartered the out-of-state
18 banks, as determined by cooperative agreements between the
19 Commissioner and the state regulatory authorities that
20 chartered the out-of-state banks.

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

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

21 (c) The "administration expenses" for any fiscal year
22 shall mean the ordinary and contingent expenses for that
23 year incident to making the examinations provided for by,
24 and for otherwise administering, this Act, the Corporate
25 Fiduciary Act, excluding the expenses paid from the
26 Corporate Fiduciary Receivership account in the Bank and
27 Trust Company Fund, the Foreign Banking Office Act, the
28 Electronic Fund Transfer Act, and the Illinois Bank
29 Examiners' Education Foundation Act, including all
30 salaries and other compensation paid for personal services
31 rendered for the State by officers or employees of the
32 State, including the Commissioner and the Deputy
33 Commissioners, all expenditures for telephone and
34 telegraph charges, postage and postal charges, office
35 stationery, supplies and services, and office furniture
36 and equipment, including typewriters and copying and

1 duplicating machines and filing equipment, surety bond
2 premiums, and travel expenses of those officers and
3 employees, employees, expenditures or charges for the
4 acquisition, enlargement or improvement of, or for the use
5 of, any office space, building, or structure, or
6 expenditures for the maintenance thereof or for furnishing
7 heat, light, or power with respect thereto, all to the
8 extent that those expenditures are directly incidental to
9 such examinations or administration. The Commissioner
10 shall not be required by paragraphs (c) or (d-1) of this
11 subsection (3) to maintain in any fiscal year's budget
12 appropriated reserves for accrued vacation and accrued
13 sick leave that is required to be paid to employees of the
14 Commissioner upon termination of their service with the
15 Commissioner in an amount that is more than is reasonably
16 anticipated to be necessary for any anticipated turnover in
17 employees, whether due to normal attrition or due to
18 layoffs, terminations, or resignations.

19 (d) The aggregate of all fees collected by the
20 Commissioner under this Act, the Corporate Fiduciary Act,
21 or the Foreign Banking Office Act on and after July 1,
22 1979, shall be paid promptly after receipt of the same,
23 accompanied by a detailed statement thereof, into the State
24 treasury and shall be set apart in a special fund to be
25 known as the "Bank and Trust Company Fund", except as
26 provided in paragraph (c) of subsection (11) of this
27 Section. All earnings received from investments of funds in
28 the Bank and Trust Company Fund shall be deposited in the
29 Bank and Trust Company Fund and may only be used for the
30 same purposes as fees deposited in that Fund. The amount
31 from time to time deposited into the Bank and Trust Company
32 Fund shall be used exclusively for the following purposes:
33 (i) to offset the ordinary administrative expenses of the
34 Commissioner of Banks and Real Estate as defined in this
35 Section or (ii) as a credit against fees under paragraph
36 (d-1) of this subsection. No other appropriations shall be

1 made from the Bank and Trust Company Fund. All moneys in
2 the Bank and Trust Company Fund shall be exempt from
3 assignment or transfer under any other law or executive
4 order, other than for unappropriated administrative
5 expenses in an amount that does not exceed 2% of the annual
6 regulatory fees paid into the Fund. Nothing in this
7 amendatory Act of 1979 shall prevent continuing the
8 practice of paying expenses involving salaries,
9 retirement, social security, and State-paid insurance
10 premiums of State officers by appropriations from the
11 General Revenue Fund. However, the General Revenue Fund
12 shall be reimbursed for those payments made on and after
13 July 1, 1979, by an annual transfer of funds from the Bank
14 and Trust Company Fund. Any fees assessed upon and paid by
15 State banks pursuant to this Act shall be held in trust to
16 be used exclusively to pay the expenses of administering
17 this Act. The credit to State banks of unexpended funds
18 provided for under paragraph (d-1) of this subsection (3)
19 constitutes a continuing property interest of the State
20 banks in those unexpended funds.

21 (d-1) Adequate funds shall be available in the Bank and
22 Trust Company Fund to permit the timely payment of
23 administration expenses. In each fiscal year the total
24 administration expenses shall be deducted from the total
25 fees collected by the Commissioner and the remainder
26 transferred into the Cash Flow Reserve Account, unless the
27 balance of the Cash Flow Reserve Account prior to the
28 transfer equals or exceeds one-fourth of the total initial
29 appropriations from the Bank and Trust Company Fund for the
30 subsequent year, in which case the remainder shall be
31 credited to State banks and foreign banking corporations
32 and applied against their fees for the subsequent year. The
33 amount credited to each State bank and foreign banking
34 corporation shall be in the same proportion as the Call
35 Report Fees paid by each for the year bear to the total
36 Call Report Fees collected for the year. If, after a

1 transfer to the Cash Flow Reserve Account is made or if no
2 remainder is available for transfer, the balance of the
3 Cash Flow Reserve Account is less than one-fourth of the
4 total initial appropriations for the subsequent year and
5 the amount transferred is less than 5% of the total Call
6 Report Fees for the year, additional amounts needed to make
7 the transfer equal to 5% of the total Call Report Fees for
8 the year shall be apportioned amongst, assessed upon, and
9 paid by the State banks and foreign banking corporations in
10 the same proportion that the Call Report Fees of each,
11 respectively, for the year bear to the total Call Report
12 Fees collected for the year. The additional amounts
13 assessed shall be transferred into the Cash Flow Reserve
14 Account. For purposes of this paragraph (d-1), the
15 calculation of the fees collected by the Commissioner shall
16 exclude the receivership fees provided for in Section 5-10
17 of the Corporate Fiduciary Act.

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

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

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

33 (5) The nature and condition of the assets in or investment
34 of any bonus, pension, or profit sharing plan for officers or
35 employees of every State bank or, after May 31, 1997, branch of
36 an out-of-state bank shall be deemed to be included in the

1 affairs of that State bank or branch of an out-of-state bank
2 subject to examination by the Commissioner under the provisions
3 of subsection (2) of this Section, and if the Commissioner
4 shall find from an examination that the condition of or
5 operation of the investments or assets of the plan is unlawful,
6 fraudulent, or unsafe, or that any trustee has abused his
7 trust, the Commissioner shall, if the situation so found by the
8 Commissioner shall not be corrected to his satisfaction within
9 60 days after the Commissioner has given notice to the board of
10 directors of the State bank or out-of-state bank of his
11 findings, report the facts to the Attorney General who shall
12 thereupon institute proceedings against the State bank or
13 out-of-state bank, the board of directors thereof, or the
14 trustees under such plan as the nature of the case may require.

15 (6) The Commissioner shall have the power:

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

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

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

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

34 (c) To appoint hearing officers to execute any of the
35 powers granted to the Commissioner under this Section for
36 the purpose of administering this Act and any rule

1 promulgated in accordance with this Act and otherwise to
2 authorize, in writing, an officer or employee of the Office
3 of Banks and Real Estate to exercise his powers under this
4 Act.

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

14 (e) To conduct hearings.

15 (7) Whenever, in the opinion of the Commissioner, any
16 director, officer, employee, or agent of a State bank or any
17 subsidiary or bank holding company of the bank or, after May
18 31, 1997, of any branch of an out-of-state bank or any
19 subsidiary or bank holding company of the bank shall have
20 violated any law, rule, or order relating to that bank or any
21 subsidiary or bank holding company of the bank, shall have
22 obstructed or impeded any examination or investigation by the
23 Commissioner, shall have engaged in an unsafe or unsound
24 practice in conducting the business of that bank or any
25 subsidiary or bank holding company of the bank, or shall have
26 violated any law or engaged or participated in any unsafe or
27 unsound practice in connection with any financial institution
28 or other business entity such that the character and fitness of
29 the director, officer, employee, or agent does not assure
30 reasonable promise of safe and sound operation of the State
31 bank, the Commissioner may issue an order of removal. If, in
32 the opinion of the Commissioner, any former director, officer,
33 employee, or agent of a State bank or any subsidiary or bank
34 holding company of the bank, prior to the termination of his or
35 her service with that bank or any subsidiary or bank holding
36 company of the bank, violated any law, rule, or order relating

1 to that State bank or any subsidiary or bank holding company of
2 the bank, obstructed or impeded any examination or
3 investigation by the Commissioner, engaged in an unsafe or
4 unsound practice in conducting the business of that bank or any
5 subsidiary or bank holding company of the bank, or violated any
6 law or engaged or participated in any unsafe or unsound
7 practice in connection with any financial institution or other
8 business entity such that the character and fitness of the
9 director, officer, employee, or agent would not have assured
10 reasonable promise of safe and sound operation of the State
11 bank, the Commissioner may issue an order prohibiting that
12 person from further service with a bank or any subsidiary or
13 bank holding company of the bank as a director, officer,
14 employee, or agent. An order issued pursuant to this subsection
15 shall be served upon the director, officer, employee, or agent.
16 A copy of the order shall be sent to each director of the bank
17 affected by registered mail. The person affected by the action
18 may request a hearing before the State Banking Board within 10
19 days after receipt of the order. The hearing shall be held by
20 the Board within 30 days after the request has been received by
21 the Board. The Board shall make a determination approving,
22 modifying, or disapproving the order of the Commissioner as its
23 final administrative decision. If a hearing is held by the
24 Board, the Board shall make its determination within 60 days
25 from the conclusion of the hearing. Any person affected by a
26 decision of the Board under this subsection (7) of Section 48
27 of this Act may have the decision reviewed only under and in
28 accordance with the Administrative Review Law and the rules
29 adopted pursuant thereto. A copy of the order shall also be
30 served upon the bank of which he is a director, officer,
31 employee, or agent, whereupon he shall cease to be a director,
32 officer, employee, or agent of that bank. The Commissioner may
33 institute a civil action against the director, officer, or
34 agent of the State bank or, after May 31, 1997, of the branch
35 of the out-of-state bank against whom any order provided for by
36 this subsection (7) of this Section 48 has been issued, and

1 against the State bank or, after May 31, 1997, out-of-state
2 bank, to enforce compliance with or to enjoin any violation of
3 the terms of the order. Any person who has been the subject of
4 an order of removal or an order of prohibition issued by the
5 Commissioner under this subsection or Section 5-6 of the
6 Corporate Fiduciary Act may not thereafter serve as director,
7 officer, employee, or agent of any State bank or of any branch
8 of any out-of-state bank, or of any corporate fiduciary, as
9 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of
10 any other entity that is subject to licensure or regulation by
11 the Commissioner or the Office of Banks and Real Estate unless
12 the Commissioner has granted prior approval in writing.

13 For purposes of this paragraph (7), "bank holding company"
14 has the meaning prescribed in Section 2 of the Illinois Bank
15 Holding Company Act of 1957.

16 (8) The Commissioner may impose civil penalties of up to
17 \$10,000 against any person for each violation of any provision
18 of this Act, any rule promulgated in accordance with this Act,
19 any order of the Commissioner, or any other action which in the
20 Commissioner's discretion is an unsafe or unsound banking
21 practice.

22 (9) The Commissioner may impose civil penalties of up to
23 \$100 against any person for the first failure to comply with
24 reporting requirements set forth in the report of examination
25 of the bank and up to \$200 for the second and subsequent
26 failures to comply with those reporting requirements.

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

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

34 (a) (Blank).

35 (b) The Foundation is empowered to receive voluntary
36 contributions, gifts, grants, bequests, and donations on

1 behalf of the Illinois Bank Examiners' Education
2 Foundation from national banks and other persons for the
3 purpose of funding the endowment of the Illinois Bank
4 Examiners' Education Foundation.

5 (c) The aggregate of all special educational fees
6 collected by the Commissioner and property received by the
7 Commissioner on behalf of the Illinois Bank Examiners'
8 Education Foundation under this subsection (11) on or after
9 June 30, 1986, shall be either (i) promptly paid after
10 receipt of the same, accompanied by a detailed statement
11 thereof, into the State Treasury and shall be set apart in
12 a special fund to be known as "The Illinois Bank Examiners'
13 Education Fund" to be invested by either the Treasurer of
14 the State of Illinois in the Public Treasurers' Investment
15 Pool or in any other investment he is authorized to make or
16 by the Illinois State Board of Investment as the board of
17 trustees of the Illinois Bank Examiners' Education
18 Foundation may direct or (ii) deposited into an account
19 maintained in a commercial bank or corporate fiduciary in
20 the name of the Illinois Bank Examiners' Education
21 Foundation pursuant to the order and direction of the Board
22 of Trustees of the Illinois Bank Examiners' Education
23 Foundation.

24 (12) (Blank).

25 (Source: P.A. 91-16, eff. 7-1-99; 92-20, eff. 7-1-01; 92-483,
26 eff. 8-23-01; 92-651, eff. 7-11-02.)

27 Section 15. The Illinois Savings and Loan Act of 1985 is
28 amended by changing Section 7-19.1 as follows:

29 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

30 Sec. 7-19.1. Savings and Residential Finance Regulatory
31 Fund.

32 (a) The aggregate of all fees collected by the Commissioner
33 under this Act shall be paid promptly after receipt of the
34 same, accompanied by a detailed statement thereof, into the

1 State treasury and shall be set apart in the Savings and
2 Residential Finance Regulatory Fund, a special fund hereby
3 created in the State treasury. The amounts deposited into the
4 Fund shall be used for the ordinary and contingent expenses of
5 the Office of Banks and Real Estate. Nothing in this Act shall
6 prevent continuing the practice of paying expenses involving
7 salaries, retirement, social security, and State-paid
8 insurance of State officers by appropriation from the General
9 Revenue Fund.

10 (b) ~~No moneys~~ ~~Moneys~~ in the Savings and Residential Finance
11 Regulatory Fund shall ~~may not~~ be appropriated, assigned, or
12 transferred to another State fund. All moneys in the Fund shall
13 be exempt from assignment or transfer under any other law or
14 executive order, other than for unappropriated administrative
15 expenses in an amount that does not exceed 2% of the annual
16 regulatory fees paid into the Fund. All ~~The~~ moneys in the Fund
17 shall remain the property of and shall be held in trust for the
18 sole benefit and exclusive regulation of ~~be for the sole~~
19 ~~benefit of~~ the institutions assessed.

20 (c) All earnings received from investments of funds in the
21 Savings and Residential Finance Regulatory Fund shall be
22 deposited into the Savings and Residential Finance Regulatory
23 Fund and may be used for the same purposes as fees deposited
24 into that Fund.

25 (Source: P.A. 92-700, eff. 7-19-02.)

26 Section 20. The Illinois Credit Union Act is amended by
27 changing Section 12 as follows:

28 (205 ILCS 305/12) (from Ch. 17, par. 4413)

29 Sec. 12. Regulatory fees.

30 (1) A credit union regulated by the Department shall pay a
31 regulatory fee to the Department pursuant to a regulatory fee
32 schedule based upon the credit union's ~~its~~ total assets as
33 shown by its Year-end Call Report at the following rates or at
34 a lesser rate established in a manner proportionately

1 consistent with the following rates and that would fund the
 2 actual administrative and operational expenses of the Credit
 3 Union Section pursuant to subsection (5):

TOTAL ASSETS	REGULATORY FEE
\$25,000 or less	\$100
Over \$25,000 and not over	
\$100,000	\$100 plus \$4 per
	\$1,000 of assets in excess of
	\$25,000
Over \$100,000 and not over	
\$200,000	\$400 plus \$3 per
	\$1,000 of assets in excess of
	\$100,000
Over \$200,000 and not over	
\$500,000	\$700 plus \$2 per
	\$1,000 of assets in excess of
	\$200,000
Over \$500,000 and not over	
\$1,000,000	\$1,300 plus \$1.40
	per \$1,000 of assets in excess
	of \$500,000
Over \$1,000,000 and not	
over \$5,000,000	\$2,000 plus \$0.50
	per \$1,000 of assets in
	excess of \$1,000,000
Over \$5,000,000 and not	
over \$30,000,000	\$4,000 \$5,000 plus \$0.35 \$0.44
	per \$1,000 assets
	in excess of \$5,000,000
Over \$30,000,000 and not	
over \$100,000,000	\$12,750 \$16,192 plus \$0.30
	\$0.38
	per \$1,000 of assets in
	excess of \$30,000,000
Over \$100,000,000 and not	

1	over \$500,000,000	<u>\$33,750</u>	\$42,862	plus <u>\$0.15</u>
		\$0.19		
2				per \$1,000 of assets in
3				excess of \$100,000,000
4	Over \$500,000,000	<u>\$93,750</u>	\$140,625	plus <u>\$0.05</u>
		\$0.075		
5				per \$1,000 of assets in
6				excess of \$500,000,000

7 (2) The Director shall review the regulatory fee schedule
8 ~~in subsection (1)~~ and the projected earnings on those fees on
9 an annual basis and adjust the fee schedule for the next fiscal
10 year. The fee schedule may be increased by no more than 5%
11 annually if necessary to defray the actual ~~estimated~~
12 administrative and operational expenses of the Credit Union
13 Section, Department as defined in subsection (5). However, the
14 fee schedule shall not be increased if the amount remaining in
15 the Credit Union Fund at the end of the fiscal year is equal to
16 or greater than 25% of the actual administrative and
17 operational expenses for the preceding fiscal year. The
18 regulatory fee for the next fiscal year shall be calculated by
19 the Director based on the credit union's total assets as of
20 December 31 of the preceding calendar year. The Director shall
21 provide credit unions with written notice of any adjustment
22 made in the regulatory fee schedule.

23 (3) Beginning on July 1, 2005, each fiscal year ~~Not later~~
24 ~~than March 1 of each calendar year,~~ a credit union shall pay to
25 the Department a regulatory fee in quarterly installments equal
26 to one-fourth of the regulatory fee due for that fiscal year
27 ~~for that calendar year in accordance with the regulatory fee~~
28 ~~schedule in subsection (1), on the basis of assets as of the~~
29 ~~Year end Call Report of the preceding year.~~ total annual
30 regulatory fee shall not be less than \$100 or more than
31 \$125,000 ~~\$187,500~~, provided that the regulatory fee cap of
32 \$125,000 ~~\$187,500~~ shall be adjusted to incorporate the same
33 percentage increase as the Director makes in the regulatory fee
34 schedule from time to time under subsection (2). No regulatory

1 fee shall be collected from a credit union until it has been in
2 operation for one year. The regulatory fee shall be billed to
3 credit unions on a quarterly basis and payable by credit unions
4 on the due date for the call report for the preceding quarter.

5 (4) The aggregate of all fees collected by the Department
6 under this Act shall be paid promptly after they are received,
7 accompanied by a detailed statement thereof, into the State
8 Treasury and shall be set apart in the Credit Union Fund, a
9 special fund hereby created in the State treasury. The amount
10 from time to time deposited in the Credit Union Fund and shall
11 be used solely and exclusively to offset the actual ~~ordinary~~
12 administrative and operational expenses of the Credit Union
13 Section ~~Department~~ under this Act. All earnings received from
14 investments of funds in the Credit Union Fund shall be
15 deposited into the Credit Union Fund and may be used for the
16 same purposes as fees deposited into that Fund. Moneys
17 deposited into the Credit Union Fund shall remain the property
18 of credit unions and shall be held in trust by the State for
19 the benefit and account of credit unions unless and until such
20 time as the moneys are expended for the purposes authorized in
21 this Act. No other appropriations shall be made from the Credit
22 Union Fund, and the moneys in the Credit Union Fund shall be
23 exempt from assignment or transfer under any other law or
24 executive order, other than for unappropriated administrative
25 expenses in an amount which shall not exceed 2% of the annual
26 regulatory fees paid into the Credit Union Fund.

27 (5) The actual administrative and operational expenses of
28 the Credit Union Section for any fiscal ~~calendar~~ year shall
29 mean the ordinary and contingent expenses for that year
30 incidental to making the examinations provided for by, and for
31 administering, this Act, including all salaries and other
32 compensation paid for personal services rendered for the State
33 by officers or employees of the State to enforce this Act; all
34 expenditures for telephone and telegraph charges, postage and
35 postal charges, office supplies and services, furniture and
36 equipment, office space and maintenance thereof, travel

1 expenses and other necessary expenses; all to the extent that
2 such expenditures are directly incidental to such examination
3 or administration.

4 (6) When the amount remaining in the Credit Union Fund at
5 the end of a fiscal year exceeds 25% ~~aggregate of all fees~~
6 ~~collected by the Department under this Act and all earnings~~
7 ~~thereon for any calendar year exceeds 150%~~ of the total actual
8 administrative and operational expenses under this Act for that
9 fiscal year, such excess shall be credited to credit unions and
10 applied against their regulatory fees for the subsequent fiscal
11 year. The amount credited to a credit union shall be in the
12 same proportion as the fee paid by such credit union for the
13 fiscal ~~calendar~~ year in which the excess is produced bears to
14 the aggregate of the fees collected by the Department under
15 this Act for the same fiscal year.

16 (7) Examination fees for the year 2000 statutory
17 examinations paid pursuant to the examination fee schedule in
18 effect at that time shall be credited toward the regulatory fee
19 to be assessed the credit union in calendar year 2001.

20 (8) Nothing in this Act shall prohibit the General Assembly
21 from appropriating funds to the Department from the General
22 Revenue Fund for the purpose of administering this Act.

23 (9) For purposes of this Section, "fiscal year" means a
24 period beginning July 1 of any year and ending June 30 of the
25 next year.

26 (Source: P.A. 92-293, eff. 8-9-01; 93-32, eff. 7-1-03; 93-652,
27 eff. 1-8-04.)

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

1		INDEX
2		Statutes amended in order of appearance
3	30 ILCS 105/8h	
4	30 ILCS 105/8j	
5	205 ILCS 5/48	from Ch. 17, par. 359
6	205 ILCS 105/7-19.1	from Ch. 17, par. 3307-19.1
7	205 ILCS 305/12	from Ch. 17, par. 4413