



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1526

Introduced 2/22/2007, by Rep. Joseph M. Lyons

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the State Finance Act. Excludes moneys received under the Illinois Credit Union Act from those moneys required to be deposited into the Financial Institution Fund. Makes certain provisions concerning transfers to the General Revenue Fund inapplicable to (i) 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 and (ii) the Professions Indirect Cost Fund. Prohibits the allocation or transfer of additional amounts generated by certain fee increases with respect to or from the Credit Union Fund. Amends the Illinois Banking Act, the Illinois Savings and Loan Act of 1985, the Savings Bank Act, the Illinois Credit Union Act, and the Residential Mortgage License Act of 1987. With respect to the moneys in each of the Bank and Trust Company Fund, the Savings and Residential Finance Regulatory Fund, and the Credit Union Fund, exempts those moneys from assignment or transfer, with exceptions. Requires that rules to adjust regulatory fee rates must be adopted. Makes changes concerning credit union regulatory fees. Makes changes concerning certain residential mortgage license fees. Makes other changes. Effective immediately.

LRB095 08530 MJR 28711 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 6z-26, 8h, and 8j as follows:

6 (30 ILCS 105/6z-26)

7 Sec. 6z-26. The Financial Institution Fund. All moneys  
8 received by the Department of Financial and Professional  
9 Regulation under the Safety Deposit License Act, the Foreign  
10 Exchange License Act, the Pawnors Societies Act, the Sale of  
11 Exchange Act, the Currency Exchange Act, the Sales Finance  
12 Agency Act, the Debt Management Service Act, the Consumer  
13 Installment Loan Act, the Illinois Development Credit  
14 Corporation Act, the Title Insurance Act, and any other Act  
15 administered by the Department of Financial and Professional  
16 Regulation as the successor of the Department of Financial  
17 Institutions now or in the future, other than the Illinois  
18 Credit Union Act, (unless an Act specifically provides  
19 otherwise) shall be deposited in the Financial Institution Fund  
20 (hereinafter "Fund"), a special fund that is hereby created in  
21 the State Treasury.

22 Moneys in the Fund shall be used by the Department, subject  
23 to appropriation, for expenses incurred in administering the

1 above named and referenced Acts.

2 The Comptroller and the State Treasurer shall transfer from  
3 the General Revenue Fund to the Fund any monies received by the  
4 Department after June 30, 1993, under any of the above named  
5 and referenced Acts that have been deposited in the General  
6 Revenue Fund.

7 As soon as possible after the end of each calendar year,  
8 the Comptroller shall compare the balance in the Fund at the  
9 end of the calendar year with the amount appropriated from the  
10 Fund for the fiscal year beginning on July 1 of that calendar  
11 year. If the balance in the Fund exceeds the amount  
12 appropriated, the Comptroller and the State Treasurer shall  
13 transfer from the Fund to the General Revenue Fund an amount  
14 equal to the difference between the balance in the Fund and the  
15 amount appropriated.

16 Nothing in this Section shall be construed to prohibit  
17 appropriations from the General Revenue Fund for expenses  
18 incurred in the administration of the above named and  
19 referenced Acts.

20 Moneys in the Fund may be transferred to the Professions  
21 Indirect Cost Fund, as authorized under Section 2105-300 of the  
22 Department of Professional Regulation Law of the Civil  
23 Administrative Code of Illinois.

24 (Source: P.A. 94-91, eff. 7-1-05.)

25 (30 ILCS 105/8h)

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

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

1 Provider Relief Fund, the Teacher Health Insurance Security  
2 Fund, the Reviewing Court Alternative Dispute Resolution Fund,  
3 the Voters' Guide Fund, the Foreign Language Interpreter Fund,  
4 the Lawyers' Assistance Program Fund, the Supreme Court Federal  
5 Projects Fund, the Supreme Court Special State Projects Fund,  
6 the Supplemental Low-Income Energy Assistance Fund, the Good  
7 Samaritan Energy Trust Fund, the Low-Level Radioactive Waste  
8 Facility Development and Operation Fund, the Horse Racing  
9 Equity Trust Fund, or the Hospital Basic Services Preservation  
10 Fund, or to any funds to which subsection (f) of Section 20-40  
11 of the Nursing and Advanced Practice Nursing Act applies. No  
12 transfers may be made under this Section from the Pet  
13 Population Control Fund. Notwithstanding any other provision  
14 of this Section, for fiscal year 2004, the total transfer under  
15 this Section from the Road Fund or the State Construction  
16 Account Fund shall not exceed the lesser of (i) 5% of the  
17 revenues to be deposited into the fund during that fiscal year  
18 or (ii) 25% of the beginning balance in the fund. For fiscal  
19 year 2005 through fiscal year 2007, no amounts may be  
20 transferred under this Section from the Road Fund, the State  
21 Construction Account Fund, the Criminal Justice Information  
22 Systems Trust Fund, the Wireless Service Emergency Fund, or the  
23 Mandatory Arbitration Fund.

24 In determining the available balance in a fund, the  
25 Governor may include receipts, transfers into the fund, and  
26 other resources anticipated to be available in the fund in that

1 fiscal year.

2 The State Treasurer and Comptroller shall transfer the  
3 amounts designated under this Section as soon as may be  
4 practicable after receiving the direction to transfer from the  
5 Governor.

6 (a-5) Transfers directed to be made under this Section on  
7 or before February 28, 2006 that are still pending on May 19,  
8 2006 (the effective date of Public Act 94-774) ~~this amendatory~~  
9 ~~Act of the 94th General Assembly~~ shall be redirected as  
10 provided in Section 8n of this Act.

11 (b) This Section does not apply to: (i) the Ticket For The  
12 Cure Fund; (ii) any fund established under the Community Senior  
13 Services and Resources Act; or (iii) on or after January 1,  
14 2006 (the effective date of Public Act 94-511), the Child Labor  
15 and Day and Temporary Labor Enforcement Fund; or (iv) any fund  
16 established under the Illinois Credit Union Act, the Illinois  
17 Banking Act, the Illinois Savings and Loan Act of 1985, or the  
18 Savings Bank Act, or the Professions Indirect Cost Fund  
19 established under the Department of Professional Regulation  
20 Law of the Civil Administrative Code of Illinois, the transfers  
21 from and expenditures of such funds being at all times limited  
22 to the purposes specified in those Acts.

23 (c) This Section does not apply to the Demutualization  
24 Trust Fund established under the Uniform Disposition of  
25 Unclaimed Property Act.

26 (d) This Section does not apply to moneys set aside in the

1 Illinois State Podiatric Disciplinary Fund for podiatric  
2 scholarships and residency programs under the Podiatric  
3 Scholarship and Residency Act.

4 (e) Subsection (a) does not apply to, and no transfer may  
5 be made under this Section from, the Pension Stabilization  
6 Fund.

7 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,  
8 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;  
9 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.  
10 1-15-05; 94-91, eff. 7-1-05; 94-120, eff. 7-6-05; 94-511, eff.  
11 1-1-06; 94-535, eff. 8-10-05; 94-639, eff. 8-22-05; 94-645,  
12 eff. 8-22-05; 94-648, eff. 1-1-06; 94-686, eff. 11-2-05;  
13 94-691, eff. 11-2-05; 94-726, eff. 1-20-06; 94-773, eff.  
14 5-18-06; 94-774, eff. 5-19-06; 94-804, eff. 5-26-06; 94-839,  
15 eff. 6-6-06; revised 6-19-06.)

16 (30 ILCS 105/8j)

17 Sec. 8j. Allocation and transfer of fee receipts to General  
18 Revenue Fund. Except as otherwise provided in this Section and  
19 Section 8n of this Act, and notwithstanding any other law to  
20 the contrary, additional amounts generated by the new and  
21 increased fees created or authorized by Public Acts 93-22,  
22 93-23, 93-24, and 93-32 shall be allocated between the fund  
23 otherwise entitled to receive the fee and the General Revenue  
24 Fund by the Governor, except that no allocation and transfer  
25 shall be made with respect to or from the Credit Union Fund. In

1 determining the amount of the allocation to the General Revenue  
2 Fund, the Governor shall calculate whether the available  
3 resources in the fund are sufficient to satisfy the unexpended  
4 and unreserved appropriations from the fund for the fiscal  
5 year.

6 In calculating the available resources in a fund, the  
7 Governor may include receipts, transfers into the fund, and  
8 other resources anticipated to be available in the fund in that  
9 fiscal year.

10 Upon determining the amount of an allocation to the General  
11 Revenue Fund under this Section, the Governor may direct the  
12 State Treasurer and Comptroller to transfer the amount of that  
13 allocation from the fund in which the fee amounts have been  
14 deposited to the General Revenue Fund; provided, however, that  
15 the Governor shall not direct the transfer of any amount that  
16 would have the effect of reducing the available resources in  
17 the fund to an amount less than the amount remaining unexpended  
18 and unreserved from the total appropriation from that fund for  
19 that fiscal year.

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

24 This Section does not apply to the Demutualization Trust  
25 Fund established under the Uniform Disposition of Unclaimed  
26 Property Act.



1 Transfers directed to be made under this Section on or  
2 before February 28, 2006 that are still pending on the  
3 effective date of this amendatory Act of the 94th General  
4 Assembly shall be redirected as provided in Section 8n of this  
5 Act.

6 (Source: P.A. 93-25, eff. 6-20-03; 93-32, eff. 6-20-03; 94-686,  
7 eff. 11-2-05; 94-774, eff. 5-19-06.)

8 Section 10. The Illinois Banking Act is amended by changing  
9 Section 48 as follows:

10 (205 ILCS 5/48) (from Ch. 17, par. 359)

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

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

23 (2) (a) The Commissioner, as often as the Commissioner  
24 shall deem necessary or proper, and no less frequently than 18

1 months following the preceding examination, shall appoint a  
2 suitable person or persons to make an examination of the  
3 affairs of every State bank, except that for every eligible  
4 State bank, as defined by regulation, the Commissioner in lieu  
5 of the examination may accept on an alternating basis the  
6 examination made by the eligible State bank's appropriate  
7 federal banking agency pursuant to Section 111 of the Federal  
8 Deposit Insurance Corporation Improvement Act of 1991,  
9 provided the appropriate federal banking agency has made such  
10 an examination. A person so appointed shall not be a  
11 stockholder or officer or employee of any bank which that  
12 person may be directed to examine, and shall have powers to  
13 make a thorough examination into all the affairs of the bank  
14 and in so doing to examine any of the officers or agents or  
15 employees thereof on oath and shall make a full and detailed  
16 report of the condition of the bank to the Commissioner. In  
17 making the examination the examiners shall include an  
18 examination of the affairs of all the affiliates of the bank,  
19 as defined in subsection (b) of Section 35.2 of this Act, or  
20 subsidiaries of the bank as shall be necessary to disclose  
21 fully the conditions of the subsidiaries or affiliates, the  
22 relations between the bank and the subsidiaries or affiliates  
23 and the effect of those relations upon the affairs of the bank,  
24 and in connection therewith shall have power to examine any of  
25 the officers, directors, agents, or employees of the  
26 subsidiaries or affiliates on oath. After May 31, 1997, the

1 Commissioner may enter into cooperative agreements with state  
2 regulatory authorities of other states to provide for  
3 examination of State bank branches in those states, and the  
4 Commissioner may accept reports of examinations of State bank  
5 branches from those state regulatory authorities. These  
6 cooperative agreements may set forth the manner in which the  
7 other state regulatory authorities may be compensated for  
8 examinations prepared for and submitted to the Commissioner.

9 (b) After May 31, 1997, the Commissioner is authorized to  
10 examine, as often as the Commissioner shall deem necessary or  
11 proper, branches of out-of-state banks. The Commissioner may  
12 establish and may assess fees to be paid to the Commissioner  
13 for examinations under this subsection (b). The fees shall be  
14 borne by the out-of-state bank, unless the fees are borne by  
15 the state regulatory authority that chartered the out-of-state  
16 bank, as determined by a cooperative agreement between the  
17 Commissioner and the state regulatory authority that chartered  
18 the out-of-state bank.

19 (2.5) Whenever any State bank, any subsidiary or affiliate  
20 of a State bank, or after May 31, 1997, any branch of an  
21 out-of-state bank causes to be performed, by contract or  
22 otherwise, any bank services for itself, whether on or off its  
23 premises:

24 (a) that performance shall be subject to examination by  
25 the Commissioner to the same extent as if services were  
26 being performed by the bank or, after May 31, 1997, branch

1 of the out-of-state bank itself on its own premises; and

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

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

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

24 (a) Each bank shall pay to the Commissioner a Call  
25 Report Fee which shall be paid in quarterly installments  
26 equal to one-fourth of the sum of the annual fixed fee of

1       \$800, plus a variable fee based on the assets shown on the  
2       quarterly statement of condition delivered to the  
3       Commissioner in accordance with Section 47 for the  
4       preceding quarter according to the following schedule: 16¢  
5       per \$1,000 of the first \$5,000,000 of total assets, 15¢ per  
6       \$1,000 of the next \$20,000,000 of total assets, 13¢ per  
7       \$1,000 of the next \$75,000,000 of total assets, 9¢ per  
8       \$1,000 of the next \$400,000,000 of total assets, 7¢ per  
9       \$1,000 of the next \$500,000,000 of total assets, and 5¢ per  
10      \$1,000 of all assets in excess of \$1,000,000,000, of the  
11      State bank. The Call Report Fee shall be calculated by the  
12      Commissioner and billed to the banks for remittance at the  
13      time of the quarterly statements of condition provided for  
14      in Section 47. The Commissioner may require payment of the  
15      fees provided in this Section by an electronic transfer of  
16      funds or an automatic debit of an account of each of the  
17      State banks. In case more than one examination of any bank  
18      is deemed by the Commissioner to be necessary in any  
19      examination frequency cycle specified in subsection 2(a)  
20      of this Section, and is performed at his direction, the  
21      Commissioner may assess a reasonable additional fee to  
22      recover the cost of the additional examination; provided,  
23      however, that an examination conducted at the request of  
24      the State Treasurer pursuant to the Uniform Disposition of  
25      Unclaimed Property Act shall not be deemed to be an  
26      additional examination under this Section. In lieu of the

1 method and amounts set forth in this paragraph (a) for the  
2 calculation of the Call Report Fee, the Commissioner may  
3 specify by rule that the Call Report Fees provided by this  
4 Section may be assessed semiannually or some other period  
5 and may provide in the rule the formula to be used for  
6 calculating and assessing the periodic Call Report Fees to  
7 be paid by State banks.

8 (a-1) If in the opinion of the Commissioner an  
9 emergency exists or appears likely, the Commissioner may  
10 assign an examiner or examiners to monitor the affairs of a  
11 State bank with whatever frequency he deems appropriate,  
12 including but not limited to a daily basis. The reasonable  
13 and necessary expenses of the Commissioner during the  
14 period of the monitoring shall be borne by the subject  
15 bank. The Commissioner shall furnish the State bank a  
16 statement of time and expenses if requested to do so within  
17 30 days of the conclusion of the monitoring period.

18 (a-2) On and after January 1, 1990, the reasonable and  
19 necessary expenses of the Commissioner during examination  
20 of the performance of electronic data processing services  
21 under subsection (2.5) shall be borne by the banks for  
22 which the services are provided. An amount, based upon a  
23 fee structure prescribed by the Commissioner, shall be paid  
24 by the banks or, after May 31, 1997, branches of  
25 out-of-state banks receiving the electronic data  
26 processing services along with the Call Report Fee assessed

1 under paragraph (a) of this subsection (3).

2 (a-3) After May 31, 1997, the reasonable and necessary  
3 expenses of the Commissioner during examination of the  
4 performance of electronic data processing services under  
5 subsection (2.5) at or on behalf of branches of  
6 out-of-state banks shall be borne by the out-of-state  
7 banks, unless those expenses are borne by the state  
8 regulatory authorities that chartered the out-of-state  
9 banks, as determined by cooperative agreements between the  
10 Commissioner and the state regulatory authorities that  
11 chartered the out-of-state banks.

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

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

22 (c) The "administration expenses" for any fiscal year  
23 shall mean the ordinary and contingent expenses for that  
24 year incident to making the examinations provided for by,  
25 and for otherwise administering, this Act, the Corporate  
26 Fiduciary Act, excluding the expenses paid from the



1 Corporate Fiduciary Receivership account in the Bank and  
2 Trust Company Fund, the Foreign Banking Office Act, the  
3 Electronic Fund Transfer Act, and the Illinois Bank  
4 Examiners' Education Foundation Act, including all  
5 salaries and other compensation paid for personal services  
6 rendered for the State by officers or employees of the  
7 State, including the Commissioner and the Deputy  
8 Commissioners, all expenditures for telephone and  
9 telegraph charges, postage and postal charges, office  
10 stationery, supplies and services, and office furniture  
11 and equipment, including typewriters and copying and  
12 duplicating machines and filing equipment, surety bond  
13 premiums, and travel expenses of those officers and  
14 employees, employees, expenditures or charges for the  
15 acquisition, enlargement or improvement of, or for the use  
16 of, any office space, building, or structure, or  
17 expenditures for the maintenance thereof or for furnishing  
18 heat, light, or power with respect thereto, all to the  
19 extent that those expenditures are directly incidental to  
20 such examinations or administration. The Commissioner  
21 shall not be required by paragraphs (c) or (d-1) of this  
22 subsection (3) to maintain in any fiscal year's budget  
23 appropriated reserves for accrued vacation and accrued  
24 sick leave that is required to be paid to employees of the  
25 Commissioner upon termination of their service with the  
26 Commissioner in an amount that is more than is reasonably

1 anticipated to be necessary for any anticipated turnover in  
2 employees, whether due to normal attrition or due to  
3 layoffs, terminations, or resignations.

4 (d) The aggregate of all fees collected by the  
5 Commissioner under this Act, the Corporate Fiduciary Act,  
6 or the Foreign Banking Office Act on and after July 1,  
7 1979, shall be paid promptly after receipt of the same,  
8 accompanied by a detailed statement thereof, into the State  
9 treasury and shall be set apart in a special fund to be  
10 known as the "Bank and Trust Company Fund", except as  
11 provided in paragraph (c) of subsection (11) of this  
12 Section. All earnings received from investments of funds in  
13 the Bank and Trust Company Fund shall be deposited in the  
14 Bank and Trust Company Fund and may only be used for the  
15 same purposes as fees deposited in that Fund. The amount  
16 from time to time deposited into the Bank and Trust Company  
17 Fund shall be used exclusively for the following purposes:

18 (i) to offset the ordinary administrative expenses of the  
19 Commissioner of Banks and Real Estate as defined in this  
20 Section or (ii) as a credit against fees under paragraph  
21 (d-1) of this subsection. No other appropriations shall be  
22 made from the Bank and Trust Company Fund. All moneys in  
23 the Bank and Trust Company Fund are exempt from assignment  
24 or transfer under any other law or executive order, other  
25 than for the purposes authorized by the Illinois State  
26 Auditing Act. Nothing in this amendatory Act of 1979 shall

1 prevent continuing the practice of paying expenses  
2 involving salaries, retirement, social security, and  
3 State-paid insurance premiums of State officers by  
4 appropriations from the General Revenue Fund. However, the  
5 General Revenue Fund shall be reimbursed for those payments  
6 made on and after July 1, 1979, by an annual transfer of  
7 funds from the Bank and Trust Company Fund. Moneys in the  
8 Bank and Trust Company Fund may be transferred to the  
9 Professions Indirect Cost Fund, as authorized under  
10 Section 2105-300 of the Department of Professional  
11 Regulation Law of the Civil Administrative Code of  
12 Illinois. Any fees assessed upon and paid by State banks  
13 pursuant to this Act must be held in trust to be used  
14 exclusively to pay the expenses of administering this Act.  
15 The credit to State banks of unexpended funds provided for  
16 under paragraph (d-1) of this subsection (3) constitutes a  
17 continuing property interest of the State banks in those  
18 unexpended funds.

19 (d-1) Adequate funds shall be available in the Bank and  
20 Trust Company Fund to permit the timely payment of  
21 administration expenses. In each fiscal year the total  
22 administration expenses shall be deducted from the total  
23 fees collected by the Commissioner and the remainder  
24 transferred into the Cash Flow Reserve Account, unless the  
25 balance of the Cash Flow Reserve Account prior to the  
26 transfer equals or exceeds one-fourth of the total initial

1 appropriations from the Bank and Trust Company Fund for the  
2 subsequent year, in which case the remainder shall be  
3 credited to State banks and foreign banking corporations  
4 and applied against their fees for the subsequent year. The  
5 amount credited to each State bank and foreign banking  
6 corporation shall be in the same proportion as the Call  
7 Report Fees paid by each for the year bear to the total  
8 Call Report Fees collected for the year. Beginning January  
9 1, 2008, the Commissioner must adopt rules to adjust  
10 regulatory fee rates to those in effect prior to the  
11 escalation in rates published in 27 Ill.Reg. 16024, Oct.  
12 10, 2003, and as amended at 27 Ill.Reg. 16326, Oct. 24,  
13 2003, unless an audit by the Auditor General of banking  
14 regulatory oversight activities requires a different rate  
15 to be set to cover the costs of regulatory oversight. Any  
16 adjustments made pursuant to an Auditor General's audit  
17 must be set forth in the form of a notice to each affected  
18 entity 45 days prior to making those adjustments. The  
19 notice must contain an explanation that includes a  
20 description of the audit results pertaining to the banking  
21 industry and a description of each reason why adjustments  
22 to the regulatory fee rates are required. If, after a  
23 transfer to the Cash Flow Reserve Account is made or if no  
24 remainder is available for transfer, the balance of the  
25 Cash Flow Reserve Account is less than one-fourth of the  
26 total initial appropriations for the subsequent year and

1 the amount transferred is less than 5% of the total Call  
2 Report Fees for the year, additional amounts needed to make  
3 the transfer equal to 5% of the total Call Report Fees for  
4 the year shall be apportioned amongst, assessed upon, and  
5 paid by the State banks and foreign banking corporations in  
6 the same proportion that the Call Report Fees of each,  
7 respectively, for the year bear to the total Call Report  
8 Fees collected for the year. The additional amounts  
9 assessed shall be transferred into the Cash Flow Reserve  
10 Account. For purposes of this paragraph (d-1), the  
11 calculation of the fees collected by the Commissioner shall  
12 exclude the receivership fees provided for in Section 5-10  
13 of the Corporate Fiduciary Act.

14 (e) The Commissioner may upon request certify to any  
15 public record in his keeping and shall have authority to  
16 levy a reasonable charge for issuing certifications of any  
17 public record in his keeping.

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

23 (4) Nothing contained in this Act shall be construed to  
24 limit the obligation relative to examinations and reports of  
25 any State bank, deposits in which are to any extent insured by  
26 the United States or any agency thereof, nor to limit in any

1 way the powers of the Commissioner with reference to  
2 examinations and reports of that bank.

3 (5) The nature and condition of the assets in or investment  
4 of any bonus, pension, or profit sharing plan for officers or  
5 employees of every State bank or, after May 31, 1997, branch of  
6 an out-of-state bank shall be deemed to be included in the  
7 affairs of that State bank or branch of an out-of-state bank  
8 subject to examination by the Commissioner under the provisions  
9 of subsection (2) of this Section, and if the Commissioner  
10 shall find from an examination that the condition of or  
11 operation of the investments or assets of the plan is unlawful,  
12 fraudulent, or unsafe, or that any trustee has abused his  
13 trust, the Commissioner shall, if the situation so found by the  
14 Commissioner shall not be corrected to his satisfaction within  
15 60 days after the Commissioner has given notice to the board of  
16 directors of the State bank or out-of-state bank of his  
17 findings, report the facts to the Attorney General who shall  
18 thereupon institute proceedings against the State bank or  
19 out-of-state bank, the board of directors thereof, or the  
20 trustees under such plan as the nature of the case may require.

21 (6) The Commissioner shall have the power:

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

24 (a-5) To impose conditions on any approval issued by  
25 the Commissioner if he determines that the conditions are  
26 necessary or appropriate. These conditions shall be

1 imposed in writing and shall continue in effect for the  
2 period prescribed by the Commissioner.

3 (b) To issue orders against any person, if the  
4 Commissioner has reasonable cause to believe that an unsafe  
5 or unsound banking practice has occurred, is occurring, or  
6 is about to occur, if any person has violated, is  
7 violating, or is about to violate any law, rule, or written  
8 agreement with the Commissioner, or for the purpose of  
9 administering the provisions of this Act and any rule  
10 promulgated in accordance with this Act.

11 (b-1) To enter into agreements with a bank establishing  
12 a program to correct the condition of the bank or its  
13 practices.

14 (c) To appoint hearing officers to execute any of the  
15 powers granted to the Commissioner under this Section for  
16 the purpose of administering this Act and any rule  
17 promulgated in accordance with this Act and otherwise to  
18 authorize, in writing, an officer or employee of the Office  
19 of Banks and Real Estate to exercise his powers under this  
20 Act.

21 (d) To subpoena witnesses, to compel their attendance,  
22 to administer an oath, to examine any person under oath,  
23 and to require the production of any relevant books,  
24 papers, accounts, and documents in the course of and  
25 pursuant to any investigation being conducted, or any  
26 action being taken, by the Commissioner in respect of any

1 matter relating to the duties imposed upon, or the powers  
2 vested in, the Commissioner under the provisions of this  
3 Act or any rule promulgated in accordance with this Act.

4 (e) To conduct hearings.

5 (7) Whenever, in the opinion of the Commissioner, any  
6 director, officer, employee, or agent of a State bank or any  
7 subsidiary or bank holding company of the bank or, after May  
8 31, 1997, of any branch of an out-of-state bank or any  
9 subsidiary or bank holding company of the bank shall have  
10 violated any law, rule, or order relating to that bank or any  
11 subsidiary or bank holding company of the bank, shall have  
12 obstructed or impeded any examination or investigation by the  
13 Commissioner, shall have engaged in an unsafe or unsound  
14 practice in conducting the business of that bank or any  
15 subsidiary or bank holding company of the bank, or shall have  
16 violated any law or engaged or participated in any unsafe or  
17 unsound practice in connection with any financial institution  
18 or other business entity such that the character and fitness of  
19 the director, officer, employee, or agent does not assure  
20 reasonable promise of safe and sound operation of the State  
21 bank, the Commissioner may issue an order of removal. If, in  
22 the opinion of the Commissioner, any former director, officer,  
23 employee, or agent of a State bank or any subsidiary or bank  
24 holding company of the bank, prior to the termination of his or  
25 her service with that bank or any subsidiary or bank holding  
26 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

1 of this Act may have the decision reviewed only under and in  
2 accordance with the Administrative Review Law and the rules  
3 adopted pursuant thereto. A copy of the order shall also be  
4 served upon the bank of which he is a director, officer,  
5 employee, or agent, whereupon he shall cease to be a director,  
6 officer, employee, or agent of that bank. The Commissioner may  
7 institute a civil action against the director, officer, or  
8 agent of the State bank or, after May 31, 1997, of the branch  
9 of the out-of-state bank against whom any order provided for by  
10 this subsection (7) of this Section 48 has been issued, and  
11 against the State bank or, after May 31, 1997, out-of-state  
12 bank, to enforce compliance with or to enjoin any violation of  
13 the terms of the order. Any person who has been the subject of  
14 an order of removal or an order of prohibition issued by the  
15 Commissioner under this subsection or Section 5-6 of the  
16 Corporate Fiduciary Act may not thereafter serve as director,  
17 officer, employee, or agent of any State bank or of any branch  
18 of any out-of-state bank, or of any corporate fiduciary, as  
19 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of  
20 any other entity that is subject to licensure or regulation by  
21 the Commissioner or the Office of Banks and Real Estate unless  
22 the Commissioner has granted prior approval in writing.

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

26 (8) The Commissioner may impose civil penalties of up to

1 \$10,000 against any person for each violation of any provision  
2 of this Act, any rule promulgated in accordance with this Act,  
3 any order of the Commissioner, or any other action which in the  
4 Commissioner's discretion is an unsafe or unsound banking  
5 practice.

6 (9) The Commissioner may impose civil penalties of up to  
7 \$100 against any person for the first failure to comply with  
8 reporting requirements set forth in the report of examination  
9 of the bank and up to \$200 for the second and subsequent  
10 failures to comply with those reporting requirements.

11 (10) All final administrative decisions of the  
12 Commissioner hereunder shall be subject to judicial review  
13 pursuant to the provisions of the Administrative Review Law.  
14 For matters involving administrative review, venue shall be in  
15 either Sangamon County or Cook County.

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

18 (a) (Blank).

19 (b) The Foundation is empowered to receive voluntary  
20 contributions, gifts, grants, bequests, and donations on  
21 behalf of the Illinois Bank Examiners' Education  
22 Foundation from national banks and other persons for the  
23 purpose of funding the endowment of the Illinois Bank  
24 Examiners' Education Foundation.

25 (c) The aggregate of all special educational fees  
26 collected by the Commissioner and property received by the

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

18 (12) (Blank).

19 (Source: P.A. 94-91, eff. 7-1-05.)

20 Section 15. The Illinois Savings and Loan Act of 1985 is  
21 amended by changing Sections 7-3 and 7-19.1 as follows:

22 (205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

23 Sec. 7-3. Personnel, records, files, actions and duties,  
24 etc.

1           (a) The Commissioner shall appoint, subject to applicable  
2 provisions of the Personnel Code, a supervisor, such examiners,  
3 employees, experts and special assistants as may be necessary  
4 to carry out effectively this Act. The Commissioner shall  
5 require each supervisor, examiner, expert and special  
6 assistant employed or appointed by him to give bond, with  
7 security to be approved by the Commissioner, not less in any  
8 case than \$15,000, conditioned for the faithful discharge of  
9 his duties. The premium on such bond shall be paid by the  
10 Commissioner from funds appropriated for that purpose. The  
11 bond, along with verification of payment of the premium on such  
12 bond, shall be filed in the office of the Secretary of State.

13           (b) The Commissioner shall have the following duties and  
14 powers:

15           (1) To exercise the rights, powers and duties set forth in  
16 this Act or in any other related Act;

17           (2) To establish such regulations as may be reasonable or  
18 necessary to accomplish the purposes of this Act;

19           (3) To direct and supervise all the administrative and  
20 technical activities of this office and create an Advisory  
21 Committee which upon request will make recommendations to him;

22           (4) To make an annual report regarding the work of his  
23 office as he may consider desirable to the Governor, or as the  
24 Governor may request;

25           (5) To cause a suit to be filed in his name to enforce any  
26 law of this State that applies to an association, subsidiary of

1 an association, or holding company operating under this Act and  
2 shall include the enforcement of any obligation of the  
3 officers, directors or employees of any association;

4 (6) To prescribe a uniform manner in which the books and  
5 records of every association are to be maintained; and

6 (7) To establish reasonable and rationally based fee  
7 structures for each association and holding company operating  
8 under this Act and for their service corporations and  
9 subsidiaries, which fees shall include but not be limited to  
10 annual fees, application fees, regular and special examination  
11 fees, and such other fees as the Commissioner establishes and  
12 demonstrates to be directly resultant from his  
13 responsibilities under this Act and as are directly  
14 attributable to individual entities operating under this Act.

15 Beginning on January 1, 2008, the Commissioner must adopt rules  
16 to adjust regulatory fee rates to those in effect prior to the  
17 escalation in rates published in 27 Ill.Reg. 16024, Oct. 10,  
18 2003, and as amended at 27 Ill.Reg. 16326, Oct. 24, 2003,  
19 unless an audit by the Auditor General of banking regulatory  
20 oversight activities requires a different rate to be set to  
21 cover the costs of regulatory oversight. Any adjustments made  
22 pursuant to an Auditor General's audit must be set forth in the  
23 form of a notice to each affected entity 45 days prior to  
24 making those adjustments. The notice must contain an  
25 explanation that includes a description of the audit results  
26 pertaining to the banking industry and a description of each

1 reason why adjustments to the regulatory fee rates are  
2 required.

3 (Source: P.A. 85-313.)

4 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

5 Sec. 7-19.1. Savings and Residential Finance Regulatory  
6 Fund.

7 (a) The aggregate of all fees collected by the Commissioner  
8 under this Act shall be paid promptly after receipt of the  
9 same, accompanied by a detailed statement thereof, into the  
10 State treasury and shall be set apart in the Savings and  
11 Residential Finance Regulatory Fund, a special fund hereby  
12 created in the State treasury. The amounts deposited into the  
13 Fund shall be solely and exclusively used for the ordinary and  
14 contingent expenses of the Commissioner in administering the  
15 Illinois Savings and Loan Act of 1985, the Savings Bank Act,  
16 and the Residential Mortgage License Act of 1987 ~~Office of~~  
17 ~~Banks and Real Estate.~~ Nothing in this Act shall prevent  
18 continuing the practice of paying expenses involving salaries,  
19 retirement, social security, and State-paid insurance of State  
20 officers by appropriation from the General Revenue Fund.

21 (b) Except as otherwise provided in subsection (b-5), no  
22 moneys in the Savings and Residential Finance Regulatory Fund  
23 shall ~~may not~~ be appropriated, assigned, or transferred to  
24 another State fund. All moneys in the Fund shall be exempt from  
25 assignment or transfer under any other law or executive order,

1 other than for the purposes authorized by the Illinois State  
2 Auditing Act. All ~~The~~ moneys in the Fund shall remain the  
3 property of and shall be held in trust for the sole benefit and  
4 exclusive regulation of ~~be for the sole benefit of~~ the  
5 institutions and entities assessed.

6 (b-5) Moneys in the Savings and Residential Finance  
7 Regulatory Fund may be transferred to the Professions Indirect  
8 Cost Fund, as authorized under Section 2105-300 of the  
9 Department of Professional Regulation Law of the Civil  
10 Administrative Code of Illinois.

11 (c) All earnings received from investments of funds in the  
12 Savings and Residential Finance Regulatory Fund shall be  
13 deposited into the Savings and Residential Finance Regulatory  
14 Fund and may be used for the same purposes as fees deposited  
15 into that Fund.

16 (d) When the amount remaining in the Savings and  
17 Residential Finance Regulatory Fund at the end of a fiscal year  
18 exceeds 25% of the total actual administrative and operational  
19 expenses incurred under the Illinois Savings and Loan Act of  
20 1985, the Savings Bank Act, and the Residential Mortgage  
21 License Act of 1987 for that fiscal year, the excess must be  
22 credited to the appropriate institutions and entities and  
23 applied against their regulatory fees for the subsequent fiscal  
24 year. The amount credited to the institution or entity must be  
25 in the same proportion that the fees paid by the institution or  
26 entity for the fiscal year in which the excess is produced



1 bears to the aggregate of the fees collected by the  
2 Commissioner under the Illinois Savings and Loan Act of 1985,  
3 the Savings Bank Act, and the Residential Mortgage License Act  
4 of 1987 for the same fiscal year. For the purpose of this  
5 Section, "fiscal year" means the period beginning July 1 of any  
6 calendar year and ending June 30 of the next calendar year.

7 (Source: P.A. 94-91, eff. 7-1-05.)

8 Section 20. The Savings Bank Act is amended by changing  
9 Section 9002 as follows:

10 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

11 Sec. 9002. Powers of Commissioner. The Commissioner shall  
12 have the following powers and duties:

13 (1) To exercise the rights, powers, and duties set forth in  
14 this Act or in any related Act.

15 (2) To establish regulations as may be reasonable or  
16 necessary to accomplish the purposes of this Act.

17 (3) To make an annual report regarding the work of his  
18 office under this Act as he may consider desirable to the  
19 Governor, or as the Governor may request.

20 (4) To cause a suit to be filed in his name to enforce any  
21 law of this State that applies to savings banks, their service  
22 corporations, subsidiaries, affiliates, or holding companies  
23 operating under this Act, including the enforcement of any  
24 obligation of the officers, directors, agents, or employees of

1 any savings bank.

2 (5) To prescribe a uniform manner in which the books and  
3 records of every savings bank are to be maintained.

4 (6) To establish a reasonable fee structure for savings  
5 banks and holding companies operating under this Act and for  
6 their service corporations and subsidiaries. The fees shall  
7 include, but not be limited to, annual fees, application fees,  
8 regular and special examination fees, and other fees as the  
9 Commissioner establishes and demonstrates to be directly  
10 resultant from the Commissioner's responsibilities under this  
11 Act and as are directly attributable to individual entities  
12 operating under this Act. The aggregate of all fees collected  
13 by the Commissioner on and after the effective date of this Act  
14 shall be paid promptly after receipt of the same, accompanied  
15 by a detailed statement thereof, into the Savings and  
16 Residential Finance Regulatory Fund. The amounts deposited  
17 into the Fund shall be used for the ordinary and contingent  
18 expenses of the Office of Banks and Real Estate. Nothing in  
19 this Act shall prevent continuing the practice of paying  
20 expenses involving salaries, retirement, social security, and  
21 State-paid insurance of State officers by appropriation from  
22 the General Revenue Fund. Beginning on January 1, 2008, the  
23 Commissioner must adopt rules to adjust regulatory fee rates to  
24 those in effect prior to the escalation in rates published in  
25 27 Ill.Reg. 16024, Oct. 10, 2003, and as amended at 27 Ill.Reg.  
26 16326, Oct. 24, 2003, unless an audit by the Auditor General of

1 banking regulatory oversight activities requires a different  
 2 rate to be set to cover the costs of regulatory oversight. Any  
 3 adjustments made pursuant to an Auditor General's audit must be  
 4 set forth in the form of a notice to each affected entity 45  
 5 days prior to making those adjustments. The notice must contain  
 6 an explanation that includes a description of the audit results  
 7 pertaining to the banking industry and a description of each  
 8 reason why adjustments to the regulatory fee rates are  
 9 required.

10 (Source: P.A. 89-508, eff. 7-3-96.)

11 Section 25. The Illinois Credit Union Act is amended by  
 12 changing Section 12 as follows:

13 (205 ILCS 305/12) (from Ch. 17, par. 4413)

14 Sec. 12. Regulatory fees.

15 (1) A credit union regulated by the Department shall pay a  
 16 regulatory fee to the Department pursuant to a regulatory fee  
 17 schedule based upon the credit union's ~~its~~ total assets as  
 18 shown by its Year-end Call Report at the following rates or at  
 19 a lesser rate established in a manner proportionately  
 20 consistent with the following rates and that would fund the  
 21 actual administrative and operational expenses of the Credit  
 22 Union Section pursuant to subsection (5):

23	TOTAL ASSETS	<u>ANNUAL</u> REGULATORY FEE
24	\$25,000 or less .....	\$100

1	Over \$25,000 and not over	
2	\$100,000 .....	\$100 plus \$4 per
3		\$1,000 of assets in excess of
4		\$25,000
5	Over \$100,000 and not over	
6	\$200,000 .....	\$400 plus \$3 per
7		\$1,000 of assets in excess of
8		\$100,000
9	Over \$200,000 and not over	
10	\$500,000 .....	\$700 plus \$2 per
11		\$1,000 of assets in excess of
12		\$200,000
13	Over \$500,000 and not over	
14	\$1,000,000 .....	\$1,300 plus \$1.40
15		per \$1,000 of assets in excess
16		of \$500,000
17	Over \$1,000,000 and not	
18	over \$5,000,000 .....	\$2,000 plus \$0.50
19		per \$1,000 of assets in
20		excess of \$1,000,000
21	Over \$5,000,000 and not	
22	over \$30,000,000 .....	<u>\$4,000</u> <del>\$5,000</del> plus <u>\$0.35</u> <del>\$0.44</del>
23		per \$1,000 assets
24		in excess of \$5,000,000
25	Over \$30,000,000 and not	

1 over \$100,000,000 ..... \$12,750 ~~\$16,192~~ plus \$0.30  
\$0.38

2 per \$1,000 of assets in  
3 excess of \$30,000,000

4 Over \$100,000,000 and not

5 over \$500,000,000 ..... \$33,750 ~~\$42,862~~ plus \$0.15  
\$0.19

6 per \$1,000 of assets in  
7 excess of \$100,000,000

8 Over \$500,000,000 ..... \$93,750 ~~\$140,625~~ plus \$0.05  
\$0.075

9 per \$1,000 of assets in  
10 excess of \$500,000,000

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

1 December 31 of the preceding calendar year. The Director shall  
2 provide credit unions with written notice of any adjustment  
3 made in the regulatory fee schedule.

4 (3) Beginning on January 1, 2008, ~~Not later than March 1 of~~  
5 ~~each calendar year,~~ a credit union shall pay to the Department  
6 a regulatory fee in quarterly installments equal to one-fourth  
7 of the regulatory fee due ~~for that calendar year~~ in accordance  
8 with the regulatory fee schedule in subsection (1), on the  
9 basis of assets as of the Year-end Call Report of the preceding  
10 calendar year. The total annual regulatory fee shall not be  
11 less than \$100 or more than \$125,000 ~~\$187,500~~, provided that  
12 the regulatory fee cap of \$125,000 ~~\$187,500~~ shall be adjusted  
13 to incorporate the same percentage increase as the Director  
14 makes in the regulatory fee schedule from time to time under  
15 subsection (2). No regulatory fee shall be collected from a  
16 credit union until it has been in operation for one year. The  
17 regulatory fee shall be billed to credit unions on a quarterly  
18 basis and payable by credit unions on the due date for the call  
19 report for the preceding quarter.

20 (4) The aggregate of all fees collected by the Department  
21 under this Act shall be paid promptly after they are received,  
22 accompanied by a detailed statement thereof, into the State  
23 Treasury and shall be set apart in the Credit Union Fund, a  
24 special fund hereby created in the State treasury. The amount  
25 from time to time deposited in the Credit Union Fund and shall  
26 be used solely and exclusively to offset the actual ordinary

1 administrative and operational expenses of the Credit Union  
2 Section Department under this Act. All earnings received from  
3 investments of funds in the Credit Union Fund shall be  
4 deposited into the Credit Union Fund and may be used for the  
5 same purposes as fees deposited into that Fund. Moneys  
6 deposited into the Credit Union Fund shall remain the property  
7 of credit unions and shall be held in trust by the State for  
8 the benefit and account of credit unions unless and until such  
9 time as the moneys are expended for the purposes authorized in  
10 this Act. No other appropriations shall be made from the Credit  
11 Union Fund, and the moneys in the Credit Union Fund shall be  
12 exempt from assignment or transfer under any other law or  
13 executive order, other than for the purposes authorized by the  
14 Illinois State Auditing Act. Moneys in the Credit Union Fund  
15 may be transferred to the Professions Indirect Cost Fund, as  
16 authorized under Section 2105-300 of the Department of  
17 Professional Regulation Law of the Civil Administrative Code of  
18 Illinois.

19 (5) The actual administrative and operational expenses of  
20 the Credit Union Section for any fiscal calendar year shall  
21 mean the ordinary and contingent expenses for that year  
22 incidental to making the examinations provided for by, and for  
23 administering, this Act, including all salaries and other  
24 compensation paid for personal services rendered for the State  
25 by officers or employees of the State to enforce this Act; all  
26 expenditures for telephone and telegraph charges, postage and

1 postal charges, office supplies and services, furniture and  
2 equipment, office space and maintenance thereof, travel  
3 expenses and other necessary expenses; all to the extent that  
4 such expenditures are directly incidental to such examination  
5 or administration.

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

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

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

25 (9) For purposes of this Section, "fiscal year" means a  
26 period beginning on July 1 of any calendar year and ending on



1 June 30 of the next calendar year.

2 (Source: P.A. 93-32, eff. 7-1-03; 93-652, eff. 1-8-04; 94-91,  
3 eff. 7-1-05.)

4 Section 30. The Residential Mortgage License Act of 1987 is  
5 amended by changing Section 2-2, 2-6, and 4-1 as follows:

6 (205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

7 Sec. 2-2. Application process; investigation; fee.

8 (a) The Commissioner shall issue a license upon completion  
9 of all of the following:

10 (1) The filing of an application for license.

11 (2) The filing with the Commissioner of a listing of  
12 judgments entered against, and bankruptcy petitions by,  
13 the license applicant for the preceding 10 years.

14 (3) The payment, in certified funds, of investigation  
15 and application fees, the total of which shall be in an  
16 amount equal to \$1,800 ~~\$2,700~~ annually, however, the  
17 Commissioner may increase the investigation and  
18 application fees by rule as provided in Section 4-11.

19 (4) Except for a broker applying to renew a license,  
20 the filing of an audited balance sheet including all  
21 footnotes prepared by a certified public accountant in  
22 accordance with generally accepted accounting principles  
23 and generally accepted auditing principles which evidences  
24 that the applicant meets the net worth requirements of

1 Section 3-5.

2 (5) The filing of proof satisfactory to the  
3 Commissioner that the applicant, the members thereof if the  
4 applicant is a partnership or association, the members or  
5 managers thereof that retain any authority or  
6 responsibility under the operating agreement if the  
7 applicant is a limited liability company, or the officers  
8 thereof if the applicant is a corporation have 3 years  
9 experience preceding application in real estate finance.  
10 Instead of this requirement, the applicant and the  
11 applicant's officers or members, as applicable, may  
12 satisfactorily complete a program of education in real  
13 estate finance and fair lending, as approved by the  
14 Commissioner, prior to receiving the initial license. The  
15 Commissioner shall promulgate rules regarding proof of  
16 experience requirements and educational requirements and  
17 the satisfactory completion of those requirements. The  
18 Commissioner may establish by rule a list of duly licensed  
19 professionals and others who may be exempt from this  
20 requirement.

21 (6) An investigation of the averments required by  
22 Section 2-4, which investigation must allow the  
23 Commissioner to issue positive findings stating that the  
24 financial responsibility, experience, character, and  
25 general fitness of the license applicant and of the members  
26 thereof if the license applicant is a partnership or

1 association, of the officers and directors thereof if the  
2 license applicant is a corporation, and of the managers and  
3 members that retain any authority or responsibility under  
4 the operating agreement if the license applicant is a  
5 limited liability company are such as to command the  
6 confidence of the community and to warrant belief that the  
7 business will be operated honestly, fairly and efficiently  
8 within the purpose of this Act. If the Commissioner shall  
9 not so find, he or she shall not issue such license, and he  
10 or she shall notify the license applicant of the denial.

11 The Commissioner may impose conditions on a license if the  
12 Commissioner determines that the conditions are necessary or  
13 appropriate. These conditions shall be imposed in writing and  
14 shall continue in effect for the period prescribed by the  
15 Commissioner.

16 (b) All licenses shall be issued in duplicate with one copy  
17 being transmitted to the license applicant and the second being  
18 retained with the Commissioner.

19 Upon receipt of such license, a residential mortgage  
20 licensee shall be authorized to engage in the business  
21 regulated by this Act. Such license shall remain in full force  
22 and effect until it expires without renewal, is surrendered by  
23 the licensee or revoked or suspended as hereinafter provided.

24 (Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

25 (205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

1           Sec. 2-6. License issuance and renewal; fee.

2           (a) Beginning July 1, 2003, licenses shall be renewed every  
3 year on the anniversary of the date of issuance of the original  
4 license. Properly completed renewal application forms and  
5 filing fees must be received by the Commissioner 60 days prior  
6 to the renewal date.

7           (b) It shall be the responsibility of each licensee to  
8 accomplish renewal of its license; failure of the licensee to  
9 receive renewal forms absent a request sent by certified mail  
10 for such forms will not waive said responsibility. Failure by a  
11 licensee to submit a properly completed renewal application  
12 form and fees in a timely fashion, absent a written extension  
13 from the Commissioner, will result in the assessment of  
14 additional fees, as follows:

15           (1) A fee of \$500 ~~\$750~~ will be assessed to the licensee  
16 30 days after the proper renewal date and \$1,000 ~~\$1,500~~  
17 each month thereafter, until the license is either renewed  
18 or expires pursuant to Section 2-6, subsections (c) and  
19 (d), of this Act.

20           (2) Such fee will be assessed without prior notice to  
21 the licensee, but will be assessed only in cases wherein  
22 the Commissioner has in his or her possession documentation  
23 of the licensee's continuing activity for which the  
24 unrenewed license was issued.

25           (c) A license which is not renewed by the date required in  
26 this Section shall automatically become inactive. No activity

1 regulated by this Act shall be conducted by the licensee when a  
2 license becomes inactive. The Commissioner may require the  
3 licensee to provide a plan for the disposition of any  
4 residential mortgage loans not closed or funded when the  
5 license becomes inactive. The Commissioner may allow a licensee  
6 with an inactive license to conduct activities regulated by  
7 this Act for the sole purpose of assisting borrowers in the  
8 closing or funding of loans for which the loan application was  
9 taken from a borrower while the license was active. An inactive  
10 license may be reactivated by the Commissioner upon payment of  
11 the renewal fee, and payment of a reactivation fee equal to the  
12 renewal fee.

13 (d) A license which is not renewed within one year of  
14 becoming inactive shall expire.

15 (e) A licensee ceasing an activity or activities regulated  
16 by this Act and desiring to no longer be licensed shall so  
17 inform the Commissioner in writing and, at the same time,  
18 convey the license and all other symbols or indicia of  
19 licensure. The licensee shall include a plan for the withdrawal  
20 from regulated business, including a timetable for the  
21 disposition of the business. Upon receipt of such written  
22 notice, the Commissioner shall issue a certified statement  
23 canceling the license.

24 (Source: P.A. 93-32, eff. 7-1-03; 93-561, eff. 1-1-04; 93-1018,  
25 eff. 1-1-05.)

1 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

2 Sec. 4-1. Commissioner of Banks and Real Estate; functions,  
3 powers, and duties. The functions, powers, and duties of the  
4 Commissioner of Banks and Real Estate shall include the  
5 following:

6 (a) To issue or refuse to issue any license as provided by  
7 this Act;

8 (b) To revoke or suspend for cause any license issued under  
9 this Act;

10 (c) To keep records of all licenses issued under this Act;

11 (d) To receive, consider, investigate, and act upon  
12 complaints made by any person in connection with any  
13 residential mortgage licensee in this State;

14 (e) To consider and act upon any recommendations from the  
15 Residential Mortgage Board;

16 (f) To prescribe the forms of and receive:

17 (1) applications for licenses; and

18 (2) all reports and all books and records required to  
19 be made by any licensee under this Act, including annual  
20 audited financial statements and annual reports of  
21 mortgage activity;

22 (g) To adopt rules and regulations necessary and proper for  
23 the administration of this Act;

24 (h) To subpoena documents and witnesses and compel their  
25 attendance and production, to administer oaths, and to require  
26 the production of any books, papers, or other materials

1 relevant to any inquiry authorized by this Act;

2 (h-1) To issue orders against any person, if the  
3 Commissioner has reasonable cause to believe that an unsafe,  
4 unsound, or unlawful practice has occurred, is occurring, or is  
5 about to occur, if any person has violated, is violating, or is  
6 about to violate any law, rule, or written agreement with the  
7 Commissioner, or for the purpose of administering the  
8 provisions of this Act and any rule adopted in accordance with  
9 the Act;

10 (h-2) To address any inquiries to any licensee, or the  
11 officers thereof, in relation to its activities and conditions,  
12 or any other matter connected with its affairs, and it shall be  
13 the duty of any licensee or person so addressed, to promptly  
14 reply in writing to such inquiries. The Commissioner may also  
15 require reports from any licensee at any time the Commissioner  
16 may deem desirable;

17 (i) To require information with regard to any license  
18 applicant as he or she may deem desirable, with due regard to  
19 the paramount interests of the public as to the experience,  
20 background, honesty, truthfulness, integrity, and competency  
21 of the license applicant as to financial transactions involving  
22 primary or subordinate mortgage financing, and where the  
23 license applicant is an entity other than an individual, as to  
24 the honesty, truthfulness, integrity, and competency of any  
25 officer or director of the corporation, association, or other  
26 entity, or the members of a partnership;

1 (j) To examine the books and records of every licensee  
2 under this Act at intervals as specified in Section 4-2;

3 (k) To enforce provisions of this Act;

4 (l) To levy fees, fines, and charges for services performed  
5 in administering this Act; the aggregate of all fees collected  
6 by the Commissioner on and after the effective date of this Act  
7 shall be paid promptly after receipt of the same, accompanied  
8 by a detailed statement thereof, into the Savings and  
9 Residential Finance Regulatory Fund; the amounts deposited  
10 into that Fund shall be used for the ordinary and contingent  
11 expenses of the Office of Banks and Real Estate. Nothing in  
12 this Act shall prevent continuing the practice of paying  
13 expenses involving salaries, retirement, social security, and  
14 State-paid insurance of State officers by appropriation from  
15 the General Revenue Fund. Beginning on January 1, 2008, the  
16 Commissioner must adopt rules to adjust regulatory fee rates to  
17 those in effect prior to the escalation in rates published in  
18 27 Ill.Reg. 10783, July 1, 2003, unless an audit by the Auditor  
19 General of banking regulatory oversight activities requires a  
20 different rate to be set to cover the costs of regulatory  
21 oversight. Any adjustments made pursuant to an Auditor  
22 General's audit must be set forth in the form of a notice to  
23 each affected entity 45 days prior to making those adjustments.  
24 The notice must contain an explanation that includes a  
25 description of the audit results pertaining to the banking  
26 industry and a description of each reason why adjustments to



1 the regulatory fee rates are required.

2 (m) To appoint examiners, supervisors, experts, and  
3 special assistants as needed to effectively and efficiently  
4 administer this Act;

5 (n) To conduct hearings for the purpose of:

6 (1) appeals of orders of the Commissioner;

7 (2) suspensions or revocations of licenses, or fining  
8 of licensees;

9 (3) investigating:

10 (i) complaints against licensees; or

11 (ii) annual gross delinquency rates; and

12 (4) carrying out the purposes of this Act;

13 (o) To exercise exclusive visitorial power over a licensee  
14 unless otherwise authorized by this Act or as vested in the  
15 courts, or upon prior consultation with the Commissioner, a  
16 foreign residential mortgage regulator with an appropriate  
17 supervisory interest in the parent or affiliate of a licensee;

18 (p) To enter into cooperative agreements with state  
19 regulatory authorities of other states to provide for  
20 examination of corporate offices or branches of those states  
21 and to accept reports of such examinations;

22 (q) To assign an examiner or examiners to monitor the  
23 affairs of a licensee with whatever frequency the Commissioner  
24 determines appropriate and to charge the licensee for  
25 reasonable and necessary expenses of the Commissioner, if in  
26 the opinion of the Commissioner an emergency exists or appears

1 likely to occur; and

2 (r) To impose civil penalties of up to \$50 per day against  
3 a licensee for failing to respond to a regulatory request or  
4 reporting requirement.

5 (Source: P.A. 93-1018, eff. 1-1-05.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	30 ILCS 105/6z-26	
4	30 ILCS 105/8h	
5	30 ILCS 105/8j	
6	205 ILCS 5/48	from Ch. 17, par. 359
7	205 ILCS 105/7-3	from Ch. 17, par. 3307-3
8	205 ILCS 105/7-19.1	from Ch. 17, par. 3307-19.1
9	205 ILCS 205/9002	from Ch. 17, par. 7309-2
10	205 ILCS 305/12	from Ch. 17, par. 4413
11	205 ILCS 635/2-2	from Ch. 17, par. 2322-2
12	205 ILCS 635/2-6	from Ch. 17, par. 2322-6
13	205 ILCS 635/4-1	from Ch. 17, par. 2324-1