



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4933

Introduced 1/15/2010, by Rep. John A. Fritchey

SYNOPSIS AS INTRODUCED:

See Index

Amends various Acts to provide that references to the Commissioner of Banks and Real Estate now refer to the Secretary of Financial and Professional Regulation and that references to the Office of Banks and Real Estate are now references to the Division of Banking of the Department of Financial and Professional Regulation. Amends the Illinois Bank Examiners' Education Foundation Act. Provides that the purpose of the Illinois Bank Examiners' Education Foundation is to further continuing education for employees of the Division. Provides that references to "Board" in the Act refer to the State Banking Board of Illinois and that the Foundation shall be governed by the State Banking Board of Illinois (instead of the Board of Trustees). Changes provisions concerning liability. Amends the Illinois Banking Act. Changes provisions concerning the powers of the Secretary. Changes provisions concerning the membership composition and terms of office of members of the State Banking Board of Illinois. Changes provisions concerning the powers of the Board, including powers related to fund transfers, investment of funds, and continuing education programs. Amends the Illinois Bank Holding Company Act of 1957. Provides that the specified powers apply to the Secretary (instead of the Commissioner). In provisions concerning removal orders, deletes language referring to certain procedures in front of the Board. Amends the Corporate Fiduciary Act. Provides that provisions concerning removal orders apply to the Secretary (instead of the Commissioner). In provisions concerning removal orders, deletes language referring to certain procedures in front of the Board. Provides that language concerning all final administrative decisions apply to the Secretary (instead of the Commissioner or, under specified circumstances, the Board).

LRB096 16850 MJR 32161 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning financial regulation.

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

4 Section 5. The Illinois Bank Examiners' Education
5 Foundation Act is amended by changing Sections 1, 3.01, 4, 5,
6 and 8 and by adding Section 3.07 as follows:

7 (20 ILCS 3210/1) (from Ch. 17, par. 401)

8 Sec. 1. The Illinois Bank Examiners' Education Foundation
9 is hereby created for the purpose of providing a means through
10 which funds may be raised, invested and disbursed for
11 continuing education and professional training activity for
12 the examination employees of the Division of Banking whose
13 responsibilities include the supervision and regulation of
14 commercial banks, foreign banking offices, trust companies,
15 and their information technology service providers
16 ~~Commissioner's office.~~

17 (Source: P.A. 84-1127.)

18 (20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

19 Sec. 3.01. "Board" means the State Banking Board of
20 Illinois ~~Board of Trustees of the Illinois Bank Examiners'~~
21 ~~Education Foundation~~ created by the Illinois Banking Act ~~this~~
22 ~~Act.~~

1 (Source: P.A. 84-1127.)

2 (20 ILCS 3210/3.07 new)

3 Sec. 3.07. Division of Banking. "Division of Banking" means
4 the Division of Banking of the Department of Financial and
5 Professional Regulation.

6 (20 ILCS 3210/4) (from Ch. 17, par. 404)

7 Sec. 4. The Foundation shall establish an endowment fund
8 with the monies in the Illinois Bank Examiners' Education Fund.
9 The income from such Fund shall be used to pay for continuing
10 education and professional training activity for the
11 examination employees of the Division of Banking whose
12 responsibilities include the supervision and regulation of
13 commercial banks, foreign banking offices, trust companies,
14 and their information technology service providers
15 ~~Commissioner's office authorized by the Board of the Illinois~~
16 ~~Bank Examiners' Education Program~~ and to pay for reasonable
17 expenses incurred by the Board in the course of its official
18 duties. The continuing education and professional training
19 activity to be funded by the Foundation shall be a supplement
20 to the education and training expenditures regularly being made
21 from the Bank & Trust Company Fund for such purposes.

22 (Source: P.A. 84-1127.)

23 (20 ILCS 3210/5) (from Ch. 17, par. 405)

1 Sec. 5. The Foundation shall be governed by the State
2 Banking Board of Illinois ~~a Board of Trustees. The Board shall~~
3 ~~consist of the following trustees: the Commissioner, who shall~~
4 ~~be its chairman; one Class A member and three Class B members~~
5 ~~from the State Banking Board of Illinois, appointed by the~~
6 ~~Governor.~~

7 ~~The terms of the trustees of the Foundation who are members~~
8 ~~of the State Banking Board of Illinois are to be coextensive~~
9 ~~with their terms on the State Banking Board of Illinois. An~~
10 ~~appointment to fill a vacancy shall be for the unexpired term~~
11 ~~of the trustee whose term is being filled. Trustees shall~~
12 ~~receive no compensation for service on the Board, but shall be~~
13 ~~reimbursed for all reasonable and necessary expenditures~~
14 ~~incurred in the performance of their official duties.~~

15 (Source: P.A. 84-1127.)

16 (20 ILCS 3210/8) (from Ch. 17, par. 408)

17 Sec. 8. No ~~Neither the Commissioner nor any~~ member of the
18 Board shall be subject to any civil liability or penalty,
19 whether for damages or otherwise, on account of or for any
20 action taken or omitted to be taken in their respective
21 official capacities, except when such acts or omissions to act
22 are corrupt or malicious or unless such action is taken or
23 omitted to be taken not in good faith and without reasonable
24 grounds.

25 (Source: P.A. 84-1127.)

1 Section 10. The Illinois Banking Act is amended by changing
2 Sections 2, 48, 78, 79, 80, and 82 as follows:

3 (205 ILCS 5/2) (from Ch. 17, par. 302)

4 Sec. 2. General definitions. In this Act, unless the
5 context otherwise requires, the following words and phrases
6 shall have the following meanings:

7 "Accommodation party" shall have the meaning ascribed to
8 that term in Section 3-419 of the Uniform Commercial Code.

9 "Action" in the sense of a judicial proceeding includes
10 recoupments, counterclaims, set-off, and any other proceeding
11 in which rights are determined.

12 "Affiliate facility" of a bank means a main banking
13 premises or branch of another commonly owned bank. The main
14 banking premises or any branch of a bank may be an "affiliate
15 facility" with respect to one or more other commonly owned
16 banks.

17 "Appropriate federal banking agency" means the Federal
18 Deposit Insurance Corporation, the Federal Reserve Bank of
19 Chicago, or the Federal Reserve Bank of St. Louis, as
20 determined by federal law.

21 "Bank" means any person doing a banking business whether
22 subject to the laws of this or any other jurisdiction.

23 A "banking house", "branch", "branch bank" or "branch
24 office" shall mean any place of business of a bank at which

1 deposits are received, checks paid, or loans made, but shall
2 not include any place at which only records thereof are made,
3 posted, or kept. A place of business at which deposits are
4 received, checks paid, or loans made shall not be deemed to be
5 a branch, branch bank, or branch office if the place of
6 business is adjacent to and connected with the main banking
7 premises, or if it is separated from the main banking premises
8 by not more than an alley; provided always that (i) if the
9 place of business is separated by an alley from the main
10 banking premises there is a connection between the two by
11 public or private way or by subterranean or overhead passage,
12 and (ii) if the place of business is in a building not wholly
13 occupied by the bank, the place of business shall not be within
14 any office or room in which any other business or service of
15 any kind or nature other than the business of the bank is
16 conducted or carried on. A place of business at which deposits
17 are received, checks paid, or loans made shall not be deemed to
18 be a branch, branch bank, or branch office (i) of any bank if
19 the place is a terminal established and maintained in
20 accordance with paragraph (17) of Section 5 of this Act, or
21 (ii) of a commonly owned bank by virtue of transactions
22 conducted at that place on behalf of the other commonly owned
23 bank under paragraph (23) of Section 5 of this Act if the place
24 is an affiliate facility with respect to the other bank.

25 "Branch of an out-of-state bank" means a branch established
26 or maintained in Illinois by an out-of-state bank as a result

1 of a merger between an Illinois bank and the out-of-state bank
2 that occurs on or after May 31, 1997, or any branch established
3 by the out-of-state bank following the merger.

4 "Bylaws" means the bylaws of a bank that are adopted by the
5 bank's board of directors or shareholders for the regulation
6 and management of the bank's affairs. If the bank operates as a
7 limited liability company, however, "bylaws" means the
8 operating agreement of the bank.

9 "Call report fee" means the fee to be paid to the
10 Commissioner by each State bank pursuant to paragraph (a) of
11 subsection (3) of Section 48 of this Act.

12 "Capital" includes the aggregate of outstanding capital
13 stock and preferred stock.

14 "Cash flow reserve account" means the account within the
15 books and records of the Commissioner of Banks and Real Estate
16 used to record funds designated to maintain a reasonable Bank
17 and Trust Company Fund operating balance to meet agency
18 obligations on a timely basis.

19 "Charter" includes the original charter and all amendments
20 thereto and articles of merger or consolidation.

21 "Commissioner" means the Commissioner of Banks and Real
22 Estate, except that beginning on April 6, 2009 (the effective
23 date of Public Act 95-1047) ~~this amendatory Act of the 95th~~
24 ~~General Assembly~~, all references in this Act to the
25 Commissioner of Banks and Real Estate are deemed, in
26 appropriate contexts, to be references to the Secretary of

1 Financial and Professional Regulation.

2 "Commonly owned banks" means 2 or more banks that each
3 qualify as a bank subsidiary of the same bank holding company
4 pursuant to Section 18 of the Federal Deposit Insurance Act;
5 "commonly owned bank" refers to one of a group of commonly
6 owned banks but only with respect to one or more of the other
7 banks in the same group.

8 "Community" means a city, village, or incorporated town and
9 also includes the area served by the banking offices of a bank,
10 but need not be limited or expanded to conform to the
11 geographic boundaries of units of local government.

12 "Company" means a corporation, limited liability company,
13 partnership, business trust, association, or similar
14 organization and, unless specifically excluded, includes a
15 "State bank" and a "bank".

16 "Consolidating bank" means a party to a consolidation.

17 "Consolidation" takes place when 2 or more banks, or a
18 trust company and a bank, are extinguished and by the same
19 process a new bank is created, taking over the assets and
20 assuming the liabilities of the banks or trust company passing
21 out of existence.

22 "Continuing bank" means a merging bank, the charter of
23 which becomes the charter of the resulting bank.

24 "Converting bank" means a State bank converting to become a
25 national bank, or a national bank converting to become a State
26 bank.

1 "Converting trust company" means a trust company
2 converting to become a State bank.

3 "Court" means a court of competent jurisdiction.

4 "Director" means a member of the board of directors of a
5 bank. In the case of a manager-managed limited liability
6 company, however, "director" means a manager of the bank and,
7 in the case of a member-managed limited liability company,
8 "director" means a member of the bank. The term "director" does
9 not include an advisory director, honorary director, director
10 emeritus, or similar person, unless the person is otherwise
11 performing functions similar to those of a member of the board
12 of directors.

13 "Director of Banking" means the Director of the Division of
14 Banking of the Department of Financial and Professional
15 Regulation.

16 "Eligible depository institution" means an insured savings
17 association that is in default, an insured savings association
18 that is in danger of default, a State or national bank that is
19 in default or a State or national bank that is in danger of
20 default, as those terms are defined in this Section, or a new
21 bank as that term defined in Section 11(m) of the Federal
22 Deposit Insurance Act or a bridge bank as that term is defined
23 in Section 11(n) of the Federal Deposit Insurance Act or a new
24 federal savings association authorized under Section
25 11(d) (2) (f) of the Federal Deposit Insurance Act.

26 "Fiduciary" means trustee, agent, executor, administrator,

1 committee, guardian for a minor or for a person under legal
2 disability, receiver, trustee in bankruptcy, assignee for
3 creditors, or any holder of similar position of trust.

4 "Financial institution" means a bank, savings bank,
5 savings and loan association, credit union, or any licensee
6 under the Consumer Installment Loan Act or the Sales Finance
7 Agency Act and, for purposes of Section 48.3, any proprietary
8 network, funds transfer corporation, or other entity providing
9 electronic funds transfer services, or any corporate
10 fiduciary, its subsidiaries, affiliates, parent company, or
11 contractual service provider that is examined by the
12 Commissioner. For purposes of Section 5c and subsection (b) of
13 Section 13 of this Act, "financial institution" includes any
14 proprietary network, funds transfer corporation, or other
15 entity providing electronic funds transfer services, and any
16 corporate fiduciary.

17 "Foundation" means the Illinois Bank Examiners' Education
18 Foundation.

19 "General obligation" means a bond, note, debenture,
20 security, or other instrument evidencing an obligation of the
21 government entity that is the issuer that is supported by the
22 full available resources of the issuer, the principal and
23 interest of which is payable in whole or in part by taxation.

24 "Guarantee" means an undertaking or promise to answer for
25 payment of another's debt or performance of another's duty,
26 liability, or obligation whether "payment guaranteed" or

1 "collection guaranteed".

2 "In danger of default" means a State or national bank, a
3 federally chartered insured savings association or an Illinois
4 state chartered insured savings association with respect to
5 which the Commissioner or the appropriate federal banking
6 agency has advised the Federal Deposit Insurance Corporation
7 that:

8 (1) in the opinion of the Commissioner or the
9 appropriate federal banking agency,

10 (A) the State or national bank or insured savings
11 association is not likely to be able to meet the
12 demands of the State or national bank's or savings
13 association's obligations in the normal course of
14 business; and

15 (B) there is no reasonable prospect that the State
16 or national bank or insured savings association will be
17 able to meet those demands or pay those obligations
18 without federal assistance; or

19 (2) in the opinion of the Commissioner or the
20 appropriate federal banking agency,

21 (A) the State or national bank or insured savings
22 association has incurred or is likely to incur losses
23 that will deplete all or substantially all of its
24 capital; and

25 (B) there is no reasonable prospect that the
26 capital of the State or national bank or insured

1 savings association will be replenished without
2 federal assistance.

3 "In default" means, with respect to a State or national
4 bank or an insured savings association, any adjudication or
5 other official determination by any court of competent
6 jurisdiction, the Commissioner, the appropriate federal
7 banking agency, or other public authority pursuant to which a
8 conservator, receiver, or other legal custodian is appointed
9 for a State or national bank or an insured savings association.

10 "Insured savings association" means any federal savings
11 association chartered under Section 5 of the federal Home
12 Owners' Loan Act and any State savings association chartered
13 under the Illinois Savings and Loan Act of 1985 or a
14 predecessor Illinois statute, the deposits of which are insured
15 by the Federal Deposit Insurance Corporation. The term also
16 includes a savings bank organized or operating under the
17 Savings Bank Act.

18 "Insured savings association in recovery" means an insured
19 savings association that is not an eligible depository
20 institution and that does not meet the minimum capital
21 requirements applicable with respect to the insured savings
22 association.

23 "Issuer" means for purposes of Section 33 every person who
24 shall have issued or proposed to issue any security; except
25 that (1) with respect to certificates of deposit, voting trust
26 certificates, collateral-trust certificates, and certificates

1 of interest or shares in an unincorporated investment trust not
2 having a board of directors (or persons performing similar
3 functions), "issuer" means the person or persons performing the
4 acts and assuming the duties of depositor or manager pursuant
5 to the provisions of the trust, agreement, or instrument under
6 which the securities are issued; (2) with respect to trusts
7 other than those specified in clause (1) above, where the
8 trustee is a corporation authorized to accept and execute
9 trusts, "issuer" means the entrusters, depositors, or creators
10 of the trust and any manager or committee charged with the
11 general direction of the affairs of the trust pursuant to the
12 provisions of the agreement or instrument creating the trust;
13 and (3) with respect to equipment trust certificates or like
14 securities, "issuer" means the person to whom the equipment or
15 property is or is to be leased or conditionally sold.

16 "Letter of credit" and "customer" shall have the meanings
17 ascribed to those terms in Section 5-102 of the Uniform
18 Commercial Code.

19 "Main banking premises" means the location that is
20 designated in a bank's charter as its main office.

21 "Maker or obligor" means for purposes of Section 33 the
22 issuer of a security, the promisor in a debenture or other debt
23 security, or the mortgagor or grantor of a trust deed or
24 similar conveyance of a security interest in real or personal
25 property.

26 "Merged bank" means a merging bank that is not the

1 continuing, resulting, or surviving bank in a consolidation or
2 merger.

3 "Merger" includes consolidation.

4 "Merging bank" means a party to a bank merger.

5 "Merging trust company" means a trust company party to a
6 merger with a State bank.

7 "Mid-tier bank holding company" means a corporation that
8 (a) owns 100% of the issued and outstanding shares of each
9 class of stock of a State bank, (b) has no other subsidiaries,
10 and (c) 100% of the issued and outstanding shares of the
11 corporation are owned by a parent bank holding company.

12 "Municipality" means any municipality, political
13 subdivision, school district, taxing district, or agency.

14 "National bank" means a national banking association
15 located in this State and after May 31, 1997, means a national
16 banking association without regard to its location.

17 "Out-of-state bank" means a bank chartered under the laws
18 of a state other than Illinois, a territory of the United
19 States, or the District of Columbia.

20 "Parent bank holding company" means a corporation that is a
21 bank holding company as that term is defined in the Illinois
22 Bank Holding Company Act of 1957 and owns 100% of the issued
23 and outstanding shares of a mid-tier bank holding company.

24 "Person" means an individual, corporation, limited
25 liability company, partnership, joint venture, trust, estate,
26 or unincorporated association.

1 "Public agency" means the State of Illinois, the various
2 counties, townships, cities, towns, villages, school
3 districts, educational service regions, special road
4 districts, public water supply districts, fire protection
5 districts, drainage districts, levee districts, sewer
6 districts, housing authorities, the Illinois Bank Examiners'
7 Education Foundation, the Chicago Park District, and all other
8 political corporations or subdivisions of the State of
9 Illinois, whether now or hereafter created, whether herein
10 specifically mentioned or not, and shall also include any other
11 state or any political corporation or subdivision of another
12 state.

13 "Public funds" or "public money" means current operating
14 funds, special funds, interest and sinking funds, and funds of
15 any kind or character belonging to, in the custody of, or
16 subject to the control or regulation of the United States or a
17 public agency. "Public funds" or "public money" shall include
18 funds held by any of the officers, agents, or employees of the
19 United States or of a public agency in the course of their
20 official duties and, with respect to public money of the United
21 States, shall include Postal Savings funds.

22 "Published" means, unless the context requires otherwise,
23 the publishing of the notice or instrument referred to in some
24 newspaper of general circulation in the community in which the
25 bank is located at least once each week for 3 successive weeks.
26 Publishing shall be accomplished by, and at the expense of, the

1 bank required to publish. Where publishing is required, the
2 bank shall submit to the Commissioner that evidence of the
3 publication as the Commissioner shall deem appropriate.

4 "Qualified financial contract" means any security
5 contract, commodity contract, forward contract, including spot
6 and forward foreign exchange contracts, repurchase agreement,
7 swap agreement, and any similar agreement, any option to enter
8 into any such agreement, including any combination of the
9 foregoing, and any master agreement for such agreements. A
10 master agreement, together with all supplements thereto, shall
11 be treated as one qualified financial contract. The contract,
12 option, agreement, or combination of contracts, options, or
13 agreements shall be reflected upon the books, accounts, or
14 records of the bank, or a party to the contract shall provide
15 documentary evidence of such agreement.

16 "Recorded" means the filing or recording of the notice or
17 instrument referred to in the office of the Recorder of the
18 county wherein the bank is located.

19 "Resulting bank" means the bank resulting from a merger or
20 conversion.

21 "Secretary" means the Secretary of Financial and
22 Professional Regulation, or a person authorized by the
23 Secretary or by this Act to act in the Secretary's stead.

24 "Securities" means stocks, bonds, debentures, notes, or
25 other similar obligations.

26 "Stand-by letter of credit" means a letter of credit under

1 which drafts are payable upon the condition the customer has
2 defaulted in performance of a duty, liability, or obligation.

3 "State bank" means any banking corporation that has a
4 banking charter issued by the Commissioner under this Act.

5 "State Banking Board" means the State Banking Board of
6 Illinois.

7 "Subsidiary" with respect to a specified company means a
8 company that is controlled by the specified company. For
9 purposes of paragraphs (8) and (12) of Section 5 of this Act,
10 "control" means the exercise of operational or managerial
11 control of a corporation by the bank, either alone or together
12 with other affiliates of the bank.

13 "Surplus" means the aggregate of (i) amounts paid in excess
14 of the par value of capital stock and preferred stock; (ii)
15 amounts contributed other than for capital stock and preferred
16 stock and allocated to the surplus account; and (iii) amounts
17 transferred from undivided profits.

18 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
19 assigned to those terms in regulations promulgated for the
20 appropriate federal banking agency of a state bank, as those
21 regulations are now or hereafter amended.

22 "Trust company" means a limited liability company or
23 corporation incorporated in this State for the purpose of
24 accepting and executing trusts.

25 "Undivided profits" means undistributed earnings less
26 discretionary transfers to surplus.

1 "Unimpaired capital and unimpaired surplus", for the
2 purposes of paragraph (21) of Section 5 and Sections 32, 33,
3 34, 35.1, 35.2, and 47 of this Act means the sum of the state
4 bank's Tier 1 Capital and Tier 2 Capital plus such other
5 shareholder equity as may be included by regulation of the
6 Commissioner. Unimpaired capital and unimpaired surplus shall
7 be calculated on the basis of the date of the last quarterly
8 call report filed with the Commissioner preceding the date of
9 the transaction for which the calculation is made, provided
10 that: (i) when a material event occurs after the date of the
11 last quarterly call report filed with the Commissioner that
12 reduces or increases the bank's unimpaired capital and
13 unimpaired surplus by 10% or more, then the unimpaired capital
14 and unimpaired surplus shall be calculated from the date of the
15 material event for a transaction conducted after the date of
16 the material event; and (ii) if the Commissioner determines for
17 safety and soundness reasons that a state bank should calculate
18 unimpaired capital and unimpaired surplus more frequently than
19 provided by this paragraph, the Commissioner may by written
20 notice direct the bank to calculate unimpaired capital and
21 unimpaired surplus at a more frequent interval. In the case of
22 a state bank newly chartered under Section 13 or a state bank
23 resulting from a merger, consolidation, or conversion under
24 Sections 21 through 26 for which no preceding quarterly call
25 report has been filed with the Commissioner, unimpaired capital
26 and unimpaired surplus shall be calculated for the first

1 calendar quarter on the basis of the effective date of the
2 charter, merger, consolidation, or conversion.

3 (Source: P.A. 95-924, eff. 8-26-08; 95-1047, eff. 4-6-09;
4 revised 4-14-09.)

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

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

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

18 (2) (a) The Commissioner, as often as the Commissioner
19 shall deem necessary or proper, and no less frequently than 18
20 months following the preceding examination, shall appoint a
21 suitable person or persons to make an examination of the
22 affairs of every State bank, except that for every eligible
23 State bank, as defined by regulation, the Commissioner in lieu
24 of the examination may accept on an alternating basis the
25 examination made by the eligible State bank's appropriate

1 federal banking agency pursuant to Section 111 of the Federal
2 Deposit Insurance Corporation Improvement Act of 1991,
3 provided the appropriate federal banking agency has made such
4 an examination. A person so appointed shall not be a
5 stockholder or officer or employee of any bank which that
6 person may be directed to examine, and shall have powers to
7 make a thorough examination into all the affairs of the bank
8 and in so doing to examine any of the officers or agents or
9 employees thereof on oath and shall make a full and detailed
10 report of the condition of the bank to the Commissioner. In
11 making the examination the examiners shall include an
12 examination of the affairs of all the affiliates of the bank,
13 as defined in subsection (b) of Section 35.2 of this Act, or
14 subsidiaries of the bank as shall be necessary to disclose
15 fully the conditions of the subsidiaries or affiliates, the
16 relations between the bank and the subsidiaries or affiliates
17 and the effect of those relations upon the affairs of the bank,
18 and in connection therewith shall have power to examine any of
19 the officers, directors, agents, or employees of the
20 subsidiaries or affiliates on oath. After May 31, 1997, the
21 Commissioner may enter into cooperative agreements with state
22 regulatory authorities of other states to provide for
23 examination of State bank branches in those states, and the
24 Commissioner may accept reports of examinations of State bank
25 branches from those state regulatory authorities. These
26 cooperative agreements may set forth the manner in which the

1 other state regulatory authorities may be compensated for
2 examinations prepared for and submitted to the Commissioner.

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

13 (2.5) Whenever any State bank, any subsidiary or affiliate
14 of a State bank, or after May 31, 1997, any branch of an
15 out-of-state bank causes to be performed, by contract or
16 otherwise, any bank services for itself, whether on or off its
17 premises:

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

22 (b) the bank or, after May 31, 1997, branch of the
23 out-of-state bank shall notify the Commissioner of the
24 existence of a service relationship. The notification
25 shall be submitted with the first statement of condition
26 (as required by Section 47 of this Act) due after the

1 making of the service contract or the performance of the
2 service, whichever occurs first. The Commissioner shall be
3 notified of each subsequent contract in the same manner.

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

12 (3) The expense of administering this Act, including the
13 expense of the examinations of State banks as provided in this
14 Act, shall to the extent of the amounts resulting from the fees
15 provided for in paragraphs (a), (a-2), and (b) of this
16 subsection (3) be assessed against and borne by the State
17 banks:

18 (a) Each bank shall pay to the Secretary a Call Report
19 Fee which shall be paid in quarterly installments equal to
20 one-fourth of the sum of the annual fixed fee of \$800, plus
21 a variable fee based on the assets shown on the quarterly
22 statement of condition delivered to the Secretary in
23 accordance with Section 47 for the preceding quarter
24 according to the following schedule: 16¢ per \$1,000 of the
25 first \$5,000,000 of total assets, 15¢ per \$1,000 of the
26 next \$20,000,000 of total assets, 13¢ per \$1,000 of the

1 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next
2 \$400,000,000 of total assets, 7¢ per \$1,000 of the next
3 \$500,000,000 of total assets, and 5¢ per \$1,000 of all
4 assets in excess of \$1,000,000,000, of the State bank. The
5 Call Report Fee shall be calculated by the Secretary and
6 billed to the banks for remittance at the time of the
7 quarterly statements of condition provided for in Section
8 47. The Secretary may require payment of the fees provided
9 in this Section by an electronic transfer of funds or an
10 automatic debit of an account of each of the State banks.
11 In case more than one examination of any bank is deemed by
12 the Secretary to be necessary in any examination frequency
13 cycle specified in subsection 2(a) of this Section, and is
14 performed at his direction, the Secretary may assess a
15 reasonable additional fee to recover the cost of the
16 additional examination; provided, however, that an
17 examination conducted at the request of the State Treasurer
18 pursuant to the Uniform Disposition of Unclaimed Property
19 Act shall not be deemed to be an additional examination
20 under this Section. In lieu of the method and amounts set
21 forth in this paragraph (a) for the calculation of the Call
22 Report Fee, the Secretary may specify by rule that the Call
23 Report Fees provided by this Section may be assessed
24 semiannually or some other period and may provide in the
25 rule the formula to be used for calculating and assessing
26 the periodic Call Report Fees to be paid by State banks.

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

11 (a-2) On and after January 1, 1990, the reasonable and
12 necessary expenses of the Commissioner during examination
13 of the performance of electronic data processing services
14 under subsection (2.5) shall be borne by the banks for
15 which the services are provided. An amount, based upon a
16 fee structure prescribed by the Commissioner, shall be paid
17 by the banks or, after May 31, 1997, branches of
18 out-of-state banks receiving the electronic data
19 processing services along with the Call Report Fee assessed
20 under paragraph (a) of this subsection (3).

21 (a-3) After May 31, 1997, the reasonable and necessary
22 expenses of the Commissioner during examination of the
23 performance of electronic data processing services under
24 subsection (2.5) at or on behalf of branches of
25 out-of-state banks shall be borne by the out-of-state
26 banks, unless those expenses are borne by the state

1 regulatory authorities that chartered the out-of-state
2 banks, as determined by cooperative agreements between the
3 Commissioner and the state regulatory authorities that
4 chartered the out-of-state banks.

5 (b) "Fiscal year" for purposes of this Section 48 is
6 defined as a period beginning July 1 of any year and ending
7 June 30 of the next year. The Commissioner shall receive
8 for each fiscal year, commencing with the fiscal year
9 ending June 30, 1987, a contingent fee equal to the lesser
10 of the aggregate of the fees paid by all State banks under
11 paragraph (a) of subsection (3) for that year, or the
12 amount, if any, whereby the aggregate of the administration
13 expenses, as defined in paragraph (c), for that fiscal year
14 exceeds the sum of the aggregate of the fees payable by all
15 State banks for that year under paragraph (a) of subsection
16 (3), plus any amounts transferred into the Bank and Trust
17 Company Fund from the State Pensions Fund for that year,
18 plus all other amounts collected by the Commissioner for
19 that year under any other provision of this Act, plus the
20 aggregate of all fees collected for that year by the
21 Commissioner under the Corporate Fiduciary Act, excluding
22 the receivership fees provided for in Section 5-10 of the
23 Corporate Fiduciary Act, and the Foreign Banking Office
24 Act. The aggregate amount of the contingent fee thus
25 arrived at for any fiscal year shall be apportioned
26 amongst, assessed upon, and paid by the State banks and

1 foreign banking corporations, respectively, in the same
2 proportion that the fee of each under paragraph (a) of
3 subsection (3), respectively, for that year bears to the
4 aggregate for that year of the fees collected under
5 paragraph (a) of subsection (3). The aggregate amount of
6 the contingent fee, and the portion thereof to be assessed
7 upon each State bank and foreign banking corporation,
8 respectively, shall be determined by the Commissioner and
9 shall be paid by each, respectively, within 120 days of the
10 close of the period for which the contingent fee is
11 computed and is payable, and the Commissioner shall give 20
12 days advance notice of the amount of the contingent fee
13 payable by the State bank and of the date fixed by the
14 Commissioner for payment of the fee.

15 (c) The "administration expenses" for any fiscal year
16 shall mean the ordinary and contingent expenses for that
17 year incident to making the examinations provided for by,
18 and for otherwise administering, this Act, the Corporate
19 Fiduciary Act, excluding the expenses paid from the
20 Corporate Fiduciary Receivership account in the Bank and
21 Trust Company Fund, the Foreign Banking Office Act, the
22 Electronic Fund Transfer Act, and the Illinois Bank
23 Examiners' Education Foundation Act, including all
24 salaries and other compensation paid for personal services
25 rendered for the State by officers or employees of the
26 State, including the Commissioner and the Deputy

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

23 (d) The aggregate of all fees collected by the
24 Secretary under this Act, the Corporate Fiduciary Act, or
25 the Foreign Banking Office Act on and after July 1, 1979,
26 shall be paid promptly after receipt of the same,

1 accompanied by a detailed statement thereof, into the State
2 treasury and shall be set apart in a special fund to be
3 known as the "Bank and Trust Company Fund", except as
4 provided in paragraph (c) of subsection (11) of this
5 Section. All earnings received from investments of funds in
6 the Bank and Trust Company Fund shall be deposited in the
7 Bank and Trust Company Fund and may be used for the same
8 purposes as fees deposited in that Fund. The amount from
9 time to time deposited into the Bank and Trust Company Fund
10 shall be used: (i) to offset the ordinary administrative
11 expenses of the Secretary as defined in this Section or
12 (ii) as a credit against fees under paragraph (d-1) of this
13 subsection (3). Nothing in this amendatory Act of 1979
14 shall prevent continuing the practice of paying expenses
15 involving salaries, retirement, social security, and
16 State-paid insurance premiums of State officers by
17 appropriations from the General Revenue Fund. However, the
18 General Revenue Fund shall be reimbursed for those payments
19 made on and after July 1, 1979, by an annual transfer of
20 funds from the Bank and Trust Company Fund. Moneys in the
21 Bank and Trust Company Fund may be transferred to the
22 Professions Indirect Cost Fund, as authorized under
23 Section 2105-300 of the Department of Professional
24 Regulation Law of the Civil Administrative Code of
25 Illinois.

26 Notwithstanding provisions in the State Finance Act,

1 as now or hereafter amended, or any other law to the
2 contrary, the sum of \$18,788,847 shall be transferred from
3 the Bank and Trust Company Fund to the Financial
4 Institutions Settlement of 2008 Fund on the effective date
5 of this amendatory Act of the 95th General Assembly, or as
6 soon thereafter as practical.

7 Notwithstanding provisions in the State Finance Act,
8 as now or hereafter amended, or any other law to the
9 contrary, the Governor may, during any fiscal year through
10 January 10, 2011, from time to time direct the State
11 Treasurer and Comptroller to transfer a specified sum not
12 exceeding 10% of the revenues to be deposited into the Bank
13 and Trust Company Fund during that fiscal year from that
14 Fund to the General Revenue Fund in order to help defray
15 the State's operating costs for the fiscal year.
16 Notwithstanding provisions in the State Finance Act, as now
17 or hereafter amended, or any other law to the contrary, the
18 total sum transferred during any fiscal year through
19 January 10, 2011, from the Bank and Trust Company Fund to
20 the General Revenue Fund pursuant to this provision shall
21 not exceed during any fiscal year 10% of the revenues to be
22 deposited into the Bank and Trust Company Fund during that
23 fiscal year. The State Treasurer and Comptroller shall
24 transfer the amounts designated under this Section as soon
25 as may be practicable after receiving the direction to
26 transfer from the Governor.

1 (d-1) Adequate funds shall be available in the Bank and
2 Trust Company Fund to permit the timely payment of
3 administration expenses. In each fiscal year the total
4 administration expenses shall be deducted from the total
5 fees collected by the Commissioner and the remainder
6 transferred into the Cash Flow Reserve Account, unless the
7 balance of the Cash Flow Reserve Account prior to the
8 transfer equals or exceeds one-fourth of the total initial
9 appropriations from the Bank and Trust Company Fund for the
10 subsequent year, in which case the remainder shall be
11 credited to State banks and foreign banking corporations
12 and applied against their fees for the subsequent year. The
13 amount credited to each State bank and foreign banking
14 corporation shall be in the same proportion as the Call
15 Report Fees paid by each for the year bear to the total
16 Call Report Fees collected for the year. If, after a
17 transfer to the Cash Flow Reserve Account is made or if no
18 remainder is available for transfer, the balance of the
19 Cash Flow Reserve Account is less than one-fourth of the
20 total initial appropriations for the subsequent year and
21 the amount transferred is less than 5% of the total Call
22 Report Fees for the year, additional amounts needed to make
23 the transfer equal to 5% of the total Call Report Fees for
24 the year shall be apportioned amongst, assessed upon, and
25 paid by the State banks and foreign banking corporations in
26 the same proportion that the Call Report Fees of each,

1 respectively, for the year bear to the total Call Report
2 Fees collected for the year. The additional amounts
3 assessed shall be transferred into the Cash Flow Reserve
4 Account. For purposes of this paragraph (d-1), the
5 calculation of the fees collected by the Commissioner shall
6 exclude the receivership fees provided for in Section 5-10
7 of the Corporate Fiduciary Act.

8 (e) The Commissioner may upon request certify to any
9 public record in his keeping and shall have authority to
10 levy a reasonable charge for issuing certifications of any
11 public record in his keeping.

12 (f) In addition to fees authorized elsewhere in this
13 Act, the Commissioner may, in connection with a review,
14 approval, or provision of a service, levy a reasonable
15 charge to recover the cost of the review, approval, or
16 service.

17 (4) Nothing contained in this Act shall be construed to
18 limit the obligation relative to examinations and reports of
19 any State bank, deposits in which are to any extent insured by
20 the United States or any agency thereof, nor to limit in any
21 way the powers of the Commissioner with reference to
22 examinations and reports of that bank.

23 (5) The nature and condition of the assets in or investment
24 of any bonus, pension, or profit sharing plan for officers or
25 employees of every State bank or, after May 31, 1997, branch of
26 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

1 violating, or is about to violate any law, rule, or written
2 agreement with the Commissioner, or for the purpose of
3 administering the provisions of this Act and any rule
4 promulgated in accordance with this Act.

5 (b-1) To enter into agreements with a bank establishing
6 a program to correct the condition of the bank or its
7 practices.

8 (c) To appoint hearing officers to execute any of the
9 powers granted to the Commissioner under this Section for
10 the purpose of administering this Act and any rule
11 promulgated in accordance with this Act and otherwise to
12 authorize, in writing, an officer or employee of the Office
13 of Banks and Real Estate to exercise his powers under this
14 Act.

15 (d) To subpoena witnesses, to compel their attendance,
16 to administer an oath, to examine any person under oath,
17 and to require the production of any relevant books,
18 papers, accounts, and documents in the course of and
19 pursuant to any investigation being conducted, or any
20 action being taken, by the Commissioner in respect of any
21 matter relating to the duties imposed upon, or the powers
22 vested in, the Commissioner under the provisions of this
23 Act or any rule promulgated in accordance with this Act.

24 (e) To conduct hearings.

25 (7) Whenever, in the opinion of the Secretary ~~Commissioner~~,
26 any director, officer, employee, or agent of a State bank or

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

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

1 officer, employee, or agent of that bank. The Secretary
2 ~~Commissioner~~ may institute a civil action against the director,
3 officer, or agent of the State bank or, after May 31, 1997, of
4 the branch of the out-of-state bank against whom any order
5 provided for by this subsection (7) of this Section 48 has been
6 issued, and against the State bank or, after May 31, 1997,
7 out-of-state bank, to enforce compliance with or to enjoin any
8 violation of the terms of the order. Any person who has been
9 the subject of an order of removal or an order of prohibition
10 issued by the Secretary ~~Commissioner~~ under this subsection or
11 Section 5-6 of the Corporate Fiduciary Act may not thereafter
12 serve as director, officer, employee, or agent of any State
13 bank or of any branch of any out-of-state bank, or of any
14 corporate fiduciary, as defined in Section 1-5.05 of the
15 Corporate Fiduciary Act, or of any other entity that is subject
16 to licensure or regulation by the Division of Banking
17 ~~Commissioner or the Office of Banks and Real Estate~~ unless the
18 Secretary ~~Commissioner~~ has granted prior approval in writing.

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

22 (8) The Commissioner may impose civil penalties of up to
23 \$10,000 against any person for each violation of any provision
24 of this Act, any rule promulgated in accordance with this Act,
25 any order of the Commissioner, or any other action which in the
26 Commissioner's discretion is an unsafe or unsound banking

1 practice.

2 (9) The Commissioner may impose civil penalties of up to
3 \$100 against any person for the first failure to comply with
4 reporting requirements set forth in the report of examination
5 of the bank and up to \$200 for the second and subsequent
6 failures to comply with those reporting requirements.

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

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

14 (a) (Blank).

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

21 (c) The aggregate of all special educational fees
22 collected by the Secretary ~~Commissioner~~ and property
23 received by the Secretary ~~Commissioner~~ on behalf of the
24 Illinois Bank Examiners' Education Foundation under this
25 subsection (11) on or after June 30, 1986, shall be either

26 (i) promptly paid after receipt of the same, accompanied by

1 a detailed statement thereof, into the State Treasury and
2 shall be set apart in a special fund to be known as "The
3 Illinois Bank Examiners' Education Fund" to be invested by
4 either the Treasurer of the State of Illinois in the Public
5 Treasurers' Investment Pool or in any other investment he
6 is authorized to make or by the Illinois State Board of
7 Investment as the State Banking Board of Illinois ~~board of~~
8 ~~trustees of the Illinois Bank Examiners' Education~~
9 ~~Foundation~~ may direct or (ii) deposited into an account
10 maintained in a commercial bank or corporate fiduciary in
11 the name of the Illinois Bank Examiners' Education
12 Foundation pursuant to the order and direction of the Board
13 of Trustees of the Illinois Bank Examiners' Education
14 Foundation.

15 (12) (Blank).

16 (Source: P.A. 94-91, eff. 7-1-05; 95-1047, eff. 4-6-09.)

17 (205 ILCS 5/78) (from Ch. 17, par. 390)

18 Sec. 78. Board of banks and trust companies; creation,
19 members, appointment. There is created a Board which shall be
20 known as the State Banking Board of Illinois which shall
21 consist of the Director of Banking ~~Commissioner~~, who shall be
22 its chairman, and 11 ~~16~~ additional members. The Board shall be
23 comprised of individuals interested in the banking industry.
24 Two members shall be from State banks having total assets of
25 not more than \$75,000,000 at the time of their appointment; 2

1 members shall be from State banks having total assets of more
2 than \$75,000,000, but not more than \$150,000,000 at the time of
3 their appointment; 2 members shall be from State banks having
4 total assets of more than \$150,000,000, but not more than
5 \$500,000,000 at the time of their appointment; 2 members shall
6 be from State banks having total assets of more than
7 \$500,000,000, but not more than \$2,000,000,000 at the time of
8 their appointment, and one member shall be from a State bank
9 having total assets of more than \$2,000,000,000 at the time of
10 his or her appointment. There shall be 2 public members,
11 neither of whom shall be an officer or director of or owner,
12 whether directly or indirectly, of more than 5% of the
13 outstanding capital stock of any bank. ~~divided into 3 classes~~
14 ~~designated Class A members, Class B members, and Class C~~
15 ~~members who are appointed by the Governor by and with the~~
16 ~~advice and consent of the Senate and made up as follows:~~

17 ~~Class A shall consist of 4 persons, none of whom shall be~~
18 ~~an officer or director of or owner, whether direct or indirect,~~
19 ~~of more than 5% of the outstanding capital stock of any bank.~~

20 ~~Class B shall consist of 10 persons who at the time of~~
21 ~~their respective appointments shall have had not less than 10~~
22 ~~years banking experience. Of the 10 Class B members, 2 shall be~~
23 ~~from State banks having total assets of not more than~~
24 ~~\$20,000,000 at the time of their appointment, 2 shall be from~~
25 ~~State banks having total assets of more than \$20,000,000 but~~
26 ~~not more than \$50,000,000 at the time of their appointment, 2~~

1 ~~shall be from State banks having total assets of more than~~
2 ~~\$50,000,000, but not more than \$125,000,000 at the time of~~
3 ~~their appointment, one shall be from a State bank having total~~
4 ~~assets of more than \$125,000,000 but not more than \$250,000,000~~
5 ~~at the time of appointment, one shall be from a State bank~~
6 ~~having total assets of more than \$250,000,000 but not more than~~
7 ~~\$1,000,000,000 at the time of appointment, one shall be from a~~
8 ~~State bank having total assets of more than \$1,000,000,000 at~~
9 ~~the time of appointment and one shall be from a foreign banking~~
10 ~~corporation certificated pursuant to the Foreign Banking~~
11 ~~Office Act.~~

12 ~~Class C shall consist of 2 persons who shall be at large~~
13 ~~members representing the banking industry generally.~~

14 (Source: P.A. 91-798, eff. 7-9-00.)

15 (205 ILCS 5/79) (from Ch. 17, par. 391)

16 Sec. 79. Board, terms of office. The terms of office of the
17 Class A and Class B members of the State Banking Board of
18 Illinois shall be 4 years, except that the initial Board
19 appointments shall be staggered with the Governor initially
20 appointing, with advice and consent of the Senate, 3 members to
21 serve 2-year terms, 4 members to serve 3-year terms, and 4
22 members to serve 4-year terms. Members shall continue to serve
23 on the Board until their replacement is appointed and
24 qualified. Vacancies shall be filled by appointment by the
25 Governor with advice and consent of the Senate. Board of Banks

1 ~~and Trust Companies who are in office on the effective date of~~
2 ~~this Amendatory Act of 1985 shall expire on December 31, 1985.~~
3 ~~The terms of office of Class A, Class B, and Class C members of~~
4 ~~the State Banking Board shall be as follows:~~

5 ~~(a) The terms of office of all Class A and Class B members~~
6 ~~of the State Banking Board shall begin on January 1, 1986.~~

7 ~~(b) The persons first appointed as the Class A members of~~
8 ~~the State Banking Board shall have the following terms as~~
9 ~~designated by the Governor; one person for a term of one year,~~
10 ~~one person for a term of 2 years, one person for a term of 3~~
11 ~~years and one person for a term of 4 years. Thereafter, the~~
12 ~~term of office of each Class A member shall be 4 years, except~~
13 ~~that an appointment to fill a vacancy shall be for the~~
14 ~~unexpired term of the member whose term is being filled.~~

15 ~~(c) The persons first appointed as Class B members of the~~
16 ~~State Banking Board shall have the following terms as~~
17 ~~designated by the Governor; one member for a term of one year,~~
18 ~~3 members for a term of 2 years, 3 members for a term of 3~~
19 ~~years, and 3 members for a term of 4 years. Thereafter, the~~
20 ~~term of office of each Class B member shall be 4 years, except~~
21 ~~that an appointment to fill a vacancy shall be for the~~
22 ~~unexpired term of the member whose term is being filled.~~

23 ~~(c-5) The initial term of office of each Class C member of~~
24 ~~the State Banking Board appointed pursuant to this amendatory~~
25 ~~Act of the 91st General Assembly shall expire on January 1,~~
26 ~~2004. Thereafter, the term of office of each Class C member~~

1 ~~shall be 4 years, except that an appointment to fill a vacancy~~
2 ~~shall be for the unexpired term of the member whose term is~~
3 ~~being filled.~~

4 (d) ~~No Class A, Class B, or Class C State Banking Board~~
5 ~~member shall serve more than 2 full 4-year terms of office.~~

6 ~~(e) The term of office of a State Banking Board member~~
7 ~~shall terminate automatically when the member no longer meets~~
8 ~~the qualifications for the member's appointment to the Board~~
9 ~~provided that an increase or decrease in the asset size of the~~
10 ~~member's bank during the member's term of office on the State~~
11 ~~Banking Board shall not result in the termination of the~~
12 ~~member's term of office.~~

13 (Source: P.A. 90-301, eff. 8-1-97; 91-798, eff. 7-9-00.)

14 (205 ILCS 5/80) (from Ch. 17, par. 392)

15 Sec. 80. Board; powers. The Board shall have the following
16 powers in addition to any others that may be granted to it by
17 law:

18 (a) (Blank). ~~To make, alter, and amend rules and~~
19 ~~regulations proposed for adoption by the Commissioner with~~
20 ~~respect to the following matters:~~

21 ~~(i) The scope and nature of showings to be furnished~~
22 ~~and evidence to be presented in connection with the~~
23 ~~granting of charters of new banks, and in connection with~~
24 ~~the approval by the Commissioner of mergers, conversions,~~
25 ~~consolidations and changes of location, and the forms upon~~

1 ~~which any of such showings may be made.~~

2 ~~(ii) The steps to be taken and the showings to be~~
3 ~~furnished in connection with voluntary dissolutions under~~
4 ~~Sections 68 to 74, inclusive, of this Act, and the forms~~
5 ~~upon which such showing are to be made.~~

6 ~~(iii) The form, content and nature of the reports to be~~
7 ~~furnished to the Commissioner under Section 47 of this Act,~~
8 ~~and the definition of the scope of examinations and the~~
9 ~~data to be furnished in connection with examinations by the~~
10 ~~Commissioner under subsection (2) and subsection (5) of~~
11 ~~Section 48 of this Act.~~

12 (b) To review, consider, and make recommendations to the
13 Director of Banking ~~Commissioner~~ upon any banking matters.

14 (c) (Blank). ~~To require the Commissioner to report~~
15 ~~periodically to the Board on any banking matters, including the~~
16 ~~following:~~

17 ~~(i) Data with respect to banks whose condition or~~
18 ~~practices are being critically considered or reviewed by~~
19 ~~the Commissioner pursuant to Section 51 of this Act, and~~
20 ~~data with respect to banks to which any notice has been~~
21 ~~given by the Commissioner pursuant to said Section 51; and~~

22 ~~(ii) The extent and nature of all disciplinary action~~
23 ~~taken by the Commissioner against any bank or any officer~~
24 ~~or director thereof, and information with respect to the~~
25 ~~manner or extent of the remedial action, if any, taken by~~
26 ~~the criticized bank or director or officer; and~~

1 ~~(iii) The extent and nature of all action taken by the~~
2 ~~Commissioner under or pursuant to Section 52 of this Act;~~

3 ~~and~~

4 ~~(iv) The extent and nature of all action taken by the~~
5 ~~Commissioner under or pursuant to Section 31 of this Act.~~

6 (d) (Blank). ~~To require the Commissioner to furnish the~~
7 ~~Board reports in respect of the granting or of the denial of~~
8 ~~new charters, mergers, changes of location, conversions or~~
9 ~~consolidations, including the findings made and the basis for~~
10 ~~the action taken by the Commissioner in connection therewith.~~

11 (e) To review, consider, and submit to the Director of
12 Banking Commissioner and to the Governor proposals for
13 amendments to this Act or for changes in or additions to the
14 administration thereof which in the opinion of the Board are
15 necessary or desirable in order to assure the safe and sound
16 conduct of the banking business.

17 (f) (Blank). ~~To require the Commissioner to furnish the~~
18 ~~Board space for meetings to be held by the Board as well as to~~
19 ~~require the Commissioner to provide such clerical and technical~~
20 ~~assistance as the Board may require.~~

21 (g) To adopt its own by-laws with respect to Board meetings
22 and procedures. Such by-laws shall provide that:

23 (i) A majority of the whole Board constitutes a quorum.

24 (ii) A majority of the quorum shall constitute
25 effective action except that a vote of a majority of the
26 whole Board shall be necessary for ~~the approval of rules~~

1 ~~and regulations proposed for adoption by the Commissioner~~
2 ~~under Section 80(a), (i), (ii) and (iii) of this Act and~~
3 ~~shall be necessary for~~ recommendations made to the Director
4 ~~of Banking Commissioner~~ and to the Governor with regard to
5 proposed amendments to this Act or to the administrative
6 practices hereunder.

7 (iii) The Board shall meet at least once in each
8 calendar year and upon the call of the Director of Banking
9 ~~Commissioner~~ or a majority of the Board. The Director of
10 Banking Commissioner or a majority of the Board may call
11 such special or additional meetings as may be deemed
12 necessary or desirable.

13 (h) (Blank). ~~To make rules to regulate the method of~~
14 ~~selecting candidates for consideration by the Governor to fill~~
15 ~~a vacancy in the Office of the Commissioner and the deputy~~
16 ~~commissioners.~~

17 (i) (Blank). ~~To make rules to regulate the method of~~
18 ~~selecting candidates for consideration by the Governor to fill~~
19 ~~a vacancy in the office of any of the 10 Class B members of the~~
20 ~~Board.~~

21 (j) (Blank). ~~To make rules to regulate the conduct of~~
22 ~~hearings under subsection (7) of Section 48 of this Act.~~

23 (k) (Blank). ~~To subpoena witnesses, to compel their~~
24 ~~attendance, to administer an oath, to examine any person under~~
25 ~~oath and to require the production of any relevant books,~~
26 ~~papers, accounts and documents in the course of and pursuant to~~

1 ~~any hearing being conducted under subsection (7) of Section 48~~
2 ~~of this Act.~~

3 (l) (Blank). ~~To appoint hearing officers to conduct~~
4 ~~hearings under subsection (7) of Section 48 of this Act.~~

5 (m) To authorize the transfer of funds from the Illinois
6 Bank Examiners' Education Fund to the Bank and Trust Company
7 Fund. Any amount transferred shall be retransferred to the
8 Illinois Bank Examiners' Education Fund from the Bank and Trust
9 Company Fund within 3 years.

10 (n) To maintain and direct the investments of the Illinois
11 Bank Examiners' Education Fund.

12 (o) To evaluate various courses, programs, curricula, and
13 schools of continuing education and professional training that
14 are available from within the United States for State banking
15 department examination personnel and develop a program known as
16 the Illinois Bank Examiners' Education Program. The Board shall
17 determine which courses, programs, curricula, and schools will
18 be included in the Program to be funded by the Foundation.

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

20 (205 ILCS 5/82) (from Ch. 17, par. 394)

21 Sec. 82. Commissioner, board; civil liability. Neither the
22 Secretary, Director of Banking, Commissioner, any deputy
23 commissioner, any member of the Board of Banks and Trust
24 Companies, any member of the State Banking Board of Illinois,
25 nor any examiner, assistant examiner or other employee of the

1 Division of Banking ~~Commissioner's office~~ shall be subject to
2 any civil liability or penalty, whether for damages or
3 otherwise, on account of or for any action taken or omitted to
4 be taken in their respective official capacities, except when
5 such acts or omissions to act are corrupt or malicious or
6 unless such action is taken or omitted to be taken not in good
7 faith and without reasonable grounds.

8 (Source: P.A. 85-204.)

9 Section 15. The Illinois Bank Holding Company Act of 1957
10 is amended by changing Sections 2 and 3.074 as follows:

11 (205 ILCS 10/2) (from Ch. 17, par. 2502)

12 Sec. 2. Unless the context requires otherwise:

13 (a) "Bank" means any national banking association or any
14 bank, banking association or savings bank, whether organized
15 under the laws of Illinois, another state, the United States,
16 the District of Columbia, any territory of the United States,
17 Puerto Rico, Guam, American Samoa or the Virgin Islands, which
18 (1) accepts deposits that the depositor has a legal right to
19 withdraw on demand by check or other negotiable order and (2)
20 engages in the business of making commercial loans. "Bank" does
21 not include any organization operating under Sections 25 or 25
22 (a) of the Federal Reserve Act, or any organization which does
23 not do business within the United States except as an incident
24 to its activities outside the United States or any foreign

1 bank.

2 (b) "Bank holding company" means any company that controls
3 or has control over any bank or over any company that is or
4 becomes a bank holding company by virtue of this Act.

5 (c) "Banking office" means the principal office of a bank,
6 any branch of a bank, or any other office at which a bank
7 accepts deposits, provided, however, that "banking office"
8 shall not mean:

9 (1) unmanned automatic teller machines, point of sale
10 terminals or other similar unmanned electronic banking
11 facilities at which deposits may be accepted; or

12 (2) offices located outside the United States.

13 (d) "Cause to be chartered", with respect to a specified
14 bank, means the acquisition of control of such bank prior to
15 the time it commences to engage in the banking business.

16 (e) "Commissioner" means the Commissioner of Banks and Real
17 Estate or a person authorized by the Commissioner, the Office
18 of Banks and Real Estate Act, or this Act to act in the
19 Commissioner's stead, except that beginning on the effective
20 date of this amendatory Act of the 96th General Assembly, all
21 references in this Act to the Commissioner of Banks and Real
22 Estate are deemed, in appropriate contexts, to be references to
23 the Secretary of Financial and Professional Regulation.

24 (f) "Community" means the contiguous area served by the
25 banking offices of a bank, but need not be limited or expanded
26 to conform to the geographic boundaries of units of local

1 government.

2 (g) "Company" means any corporation, business trust,
3 voting trust, association, partnership, joint venture, similar
4 organization or any other trust unless by its terms it must
5 terminate within 25 years or not later than 21 years and 10
6 months after the death of individuals living on the effective
7 date of the trust, but shall not include (1) an individual or
8 (2) any corporation the majority of the shares of which are
9 owned by the United States or by any state or any corporation
10 or community chest fund, organized and operated exclusively for
11 religious, charitable, scientific, literary or educational
12 purposes, no part of the net earnings of which inure to the
13 benefit of any private shareholder or individual and no
14 substantial part of the activities of which is carrying on
15 propaganda or otherwise attempting to influence legislation.

16 (h) A company "controls or has control over" a bank or
17 company if (1) it directly or indirectly owns or controls or
18 has the power to vote, 25% or more of the voting shares of any
19 class of voting securities of such bank or company or (2) it
20 controls in any manner the election of a majority of the
21 directors or trustees of such bank or company or (3) a trustee
22 holds for the benefit of its shareholders, members or
23 employees, 25% or more of the voting shares of such bank or
24 company or (4) it directly or indirectly exercises a
25 controlling influence over the management or policies of such
26 bank or company that is a bank holding company and the Board of

1 Governors of the Federal Reserve System has so determined under
2 the federal Bank Holding Company Act. In determining whether
3 any company controls or has control over a bank or company: (i)
4 shares owned or controlled by any subsidiary of a company shall
5 be deemed to be indirectly owned or controlled by such company;
6 (ii) shares held or controlled, directly or indirectly, by a
7 trustee or trustees for the benefit of a company, the
8 shareholders or members of a company or the employees (whether
9 exclusively or not) of a company, shall be deemed to be
10 controlled by such company; and (iii) shares transferred,
11 directly or indirectly, by any bank holding company (or by any
12 company which, but for such transfer, would be a bank holding
13 company) to any transferee that is indebted to the transferor
14 or that has one or more officers, directors, trustees or
15 beneficiaries in common with or subject to control by the
16 transferor, shall be deemed to be indirectly owned or
17 controlled by the transferor unless the Board of Governors of
18 the Federal Reserve System has determined, under the federal
19 Bank Holding Company Act, that the transferor is not in fact
20 capable of controlling the transferee. Notwithstanding the
21 foregoing, no company shall be deemed to have control of or
22 over a bank or bank holding company (A) by virtue of its
23 ownership or control of shares in a fiduciary capacity arising
24 in the ordinary course of its business; (B) by virtue of its
25 ownership or control of shares acquired by it in connection
26 with its underwriting of securities which are held only for

1 such period of time as will permit the sale thereof upon a
2 reasonable basis; (C) by virtue of its holding any shares as
3 collateral taken in the ordinary course of securing a debt or
4 other obligation; (D) by virtue of its ownership or control of
5 shares acquired in the ordinary course of collecting a debt or
6 other obligation previously contracted in good faith, until 5
7 years after the date acquired; or (E) by virtue of its voting
8 rights with respect to shares of any bank or bank holding
9 company acquired in the course of a proxy solicitation in the
10 case of a company formed and operated for the sole purpose of
11 participating in a proxy solicitation.

12 (h-5) "Division of Banking" means the Division of Banking
13 of the Department of Financial and Professional Regulation.

14 (i) "Federal Bank Holding Company Act" means the
15 federal Bank Holding Company Act of 1956, as now or
16 hereafter amended.

17 (j) "Foreign bank" means any company organized under the
18 laws of a foreign country which engages in the business of
19 banking or any subsidiary or affiliate of any such company,
20 organized under such laws. "Foreign bank" includes, without
21 limitation, foreign merchant banks and other foreign
22 institutions that engage in banking activities usual in
23 connection with the business of banking in the countries where
24 such foreign institutions are organized or operating.

25 (k) "Home state" means the home state of a foreign bank as
26 determined pursuant to the federal International Banking Act of

1 1978.

2 (1) "Illinois bank" means a bank:

3 (1) that is organized under the laws of this State or
4 of the United States; and

5 (2) whose main banking premises is located in Illinois.

6 (m) "Illinois bank holding company" means a bank holding
7 company:

8 (1) whose principal place of business is Illinois; and

9 (2) that is not directly or indirectly controlled by
10 another bank holding company whose principal place of
11 business is a state other than Illinois or by a foreign
12 bank whose Home State is a state other than Illinois.

13 An out of state bank holding company that acquires control
14 of one or more Illinois banks or Illinois bank holding
15 companies pursuant to Sections 3.061 or 3.071 shall not be
16 deemed an Illinois bank holding company.

17 (n) "Main banking premises" means the location that is
18 designated in a bank's charter as its main office and that is
19 within the state in which the total deposits held by all of the
20 banking offices of such bank are the largest, as shown in the
21 most recent reports of condition or similar reports filed by
22 such bank with state or federal regulatory authorities.

23 (o) "Out of state bank" means a bank:

24 (1) that is not an Illinois bank; and

25 (2) whose main banking premises is located in a state
26 other than Illinois.

1 (p) "Out of state bank holding company" means a bank
2 holding company:

3 (1) that is not an Illinois bank holding company;

4 (2) whose principal place of business is a state other
5 than Illinois the laws of which expressly authorize the
6 acquisition by an Illinois bank holding company of a bank
7 or bank holding company in that state under qualifications
8 and conditions which are not unduly restrictive, as
9 determined by the Secretary Commissioner, when compared to
10 those imposed by the laws of Illinois.

11 (q) "Principal place of business" means, with respect to a
12 bank holding company, the state in which the total deposits
13 held by all of the banking offices of all of the bank
14 subsidiaries of such bank holding company are the largest, as
15 shown in the most recent reports of condition or similar
16 reports filed by the bank holding company's bank subsidiaries
17 with state or federal regulatory authorities.

18 (q-5) "Secretary" means the Secretary of Financial and
19 Professional Regulation, or a person authorized by the
20 Secretary or by this Act to act in the Secretary's stead.

21 (r) "State" or "states" when used in this Act means any
22 State of the United States, the District of Columbia, any
23 territory of the United States, Puerto Rico, Guam, American
24 Samoa or the Virgin Islands.

25 (s) "Subsidiary", with respect to a specified bank holding
26 company, means any bank or company controlled by such bank

1 holding company.

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

3 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

4 Sec. 3.074. Powers; administrative review.

5 (a) The Secretary ~~Commissioner~~ shall have the power and
6 authority:

7 (1) to promulgate reasonable procedural rules for the
8 purposes of administering the provisions of this Act. The
9 Secretary ~~Commissioner~~ shall specify the form of any
10 application, report or document that is required to be
11 filed with the Secretary ~~Commissioner~~ pursuant to this Act;

12 (2) to issue orders for the purpose of administering
13 the provisions of this Act and any rule promulgated in
14 accordance with this Act;

15 (3) to appoint hearing officers to execute any of the
16 powers granted to the Secretary ~~Commissioner~~ under this
17 Section for the purpose of administering this Act or any
18 rule promulgated in accordance with this Act; and

19 (4) to subpoena witnesses, to compel their attendance,
20 to administer an oath, to examine any person under oath and
21 to require the production of any relevant books, papers,
22 accounts and documents in the course of and pursuant to any
23 investigation or hearing being conducted or any action
24 being taken by the Secretary ~~Commissioner~~ in respect to any
25 matter relating to the duties imposed upon or the powers

1 vested in the Secretary ~~Commissioner~~ under the provisions
2 of this Act or any rule promulgated in accordance with this
3 Act.

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

1 Secretary Commissioner, engaged in an unsafe or unsound
2 practice in conducting the business of that bank holding
3 company or subsidiary or affiliate of that company, or violated
4 any law or engaged or participated in any unsafe or unsound
5 practice in connection with any financial institution or other
6 business entity such that the character and fitness of the
7 director, officer, employee, or agent would not have assured
8 reasonable promise of safe and sound operation of the bank
9 holding company, the Secretary Commissioner may issue an order
10 prohibiting that person from further service with a bank
11 holding company or subsidiary or affiliate of that company as a
12 director, officer, employee, or agent.

13 An order issued pursuant to this subsection shall be served
14 upon the director, officer, employee, or agent. A copy of the
15 order shall be sent to each director of the bank holding
16 company affected by registered mail. ~~The person affected by the~~
17 ~~action may request a hearing before the State Banking Board~~
18 ~~within 10 days after receipt of the order. The hearing shall be~~
19 ~~held by the State Banking Board within 30 days after the~~
20 ~~request has been received by the State Banking Board. The State~~
21 ~~Banking Board shall make a determination approving, modifying,~~
22 ~~or disapproving the order of the Commissioner as its final~~
23 ~~administrative decision. If a hearing is held by the State~~
24 ~~Banking Board, the State Banking Board shall make its~~
25 ~~determination within 60 days from the conclusion of the~~
26 ~~hearing. Any person affected by a decision of the State Banking~~

1 ~~Board under this subsection may have the decision reviewed only~~
2 ~~under and in accordance with the Administrative Review Law and~~
3 ~~the rules adopted pursuant thereto.~~ A copy of the order shall
4 also be served upon the bank holding company of which he is a
5 director, officer, employee, or agent, whereupon he shall cease
6 to be a director, officer, employee, or agent of that bank
7 holding company.

8 The Secretary ~~Commissioner~~ may institute a civil action
9 against the director, officer, employee, or agent of the bank
10 holding company, against whom any order provided for by this
11 subsection has been issued, to enforce compliance with or to
12 enjoin any violation of the terms of the order.

13 Any person who has been the subject of an order of removal
14 or an order of prohibition issued by the Secretary ~~Commissioner~~
15 under this subsection, subdivision (7) of Section 48 of the
16 Illinois Banking Act, or Section 5-6 of the Corporate Fiduciary
17 Act may not thereafter serve as director, officer, employee, or
18 agent of any holding company, State bank, or branch of any
19 out-of-state bank, of any corporate fiduciary, as defined in
20 Section 1-5.05 of the Corporate Fiduciary Act, or of any other
21 entity that is subject to licensure or regulation by the
22 Division of Banking ~~Commissioner or the Office of Banks and~~
23 ~~Real Estate~~ unless the Secretary ~~Commissioner~~ has granted prior
24 approval in writing.

25 (c) All final administrative decisions of the Secretary
26 ~~Commissioner~~ under this Act shall be subject to judicial review

1 pursuant to provisions of the Administrative Review Law. For
2 matters involving administrative review, venue shall be in
3 either Sangamon County or Cook County.

4 (Source: P.A. 92-483, eff. 8-23-01.)

5 Section 20. The Corporate Fiduciary Act is amended by
6 changing Sections 1-5.03, 5-6, and 5-8 and by adding Sections
7 1-5.07a and 1-5.09a as follows:

8 (205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

9 Sec. 1-5.03. "Commissioner" means the Commissioner of
10 Banks and Real Estate or a person authorized by the
11 Commissioner, the Office of Banks and Real Estate Act, or this
12 Act to act in the Commissioner's stead, except that beginning
13 on the effective date of this amendatory Act of the 96th
14 General Assembly, all references in this Act to the
15 Commissioner of Banks and Real Estate are deemed, in
16 appropriate contexts, to be references to the Secretary of
17 Financial and Professional Regulation.

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

19 (205 ILCS 620/1-5.07a new)

20 Sec. 1-5.07a. Division of Banking. "Division of Banking"
21 means the Division of Banking of the Department of Financial
22 and Professional Regulation.

1 (205 ILCS 620/1-5.09a new)

2 Sec. 1-5.09a. Secretary. "Secretary" means the Secretary
3 of Financial and Professional Regulation, or a person
4 authorized by the Secretary or by this Act to act in the
5 Secretary's stead.

6 (205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

7 Sec. 5-6. Removal orders. Whenever, in the opinion of the
8 Secretary ~~Commissioner~~, any director, officer, employee, or
9 agent of a corporate fiduciary or subsidiary or corporate
10 parent of the corporate fiduciary shall have violated any law,
11 rule, or order relating to the corporate fiduciary or
12 subsidiary or corporate parent of the corporate fiduciary,
13 shall have engaged in an unsafe or unsound practice in
14 conducting the business of the corporate fiduciary or
15 subsidiary or corporate parent of the corporate fiduciary, or
16 shall have violated any law or engaged or participated in any
17 unsafe or unsound practice in connection with any financial
18 institution or other business entity such that the character
19 and fitness of the director, officer, employee, or agent does
20 not assure reasonable promise of safe and sound operation of
21 the corporate fiduciary or subsidiary or corporate parent of
22 the corporate fiduciary, the Secretary ~~Commissioner~~ may issue
23 an order of removal. If in the opinion of the Secretary
24 ~~Commissioner~~, any former director, officer, employee, or agent
25 of a corporate fiduciary or subsidiary or corporate parent of

1 the corporate fiduciary, prior to the termination of his or her
2 service with the corporate fiduciary or subsidiary or corporate
3 parent of the corporate fiduciary, violated any law, rule, or
4 order relating to the corporate fiduciary or subsidiary or
5 corporate parent of the corporate fiduciary or engaged in an
6 unsafe or unsound practice in conducting the business of the
7 corporate fiduciary or subsidiary or corporate parent of the
8 corporate fiduciary or violated any law or engaged or
9 participated in any unsafe or unsound practice in connection
10 with any financial institution or other business entity such
11 that the character and fitness of the director, officer,
12 employee, or agent would not have assured reasonable promise of
13 safe and sound operation of the corporate fiduciary or
14 subsidiary or corporate parent of the corporate fiduciary, the
15 Secretary ~~Commissioner~~ may issue an order prohibiting that
16 person from further service with a corporate fiduciary or
17 subsidiary or corporate parent of the corporate fiduciary as a
18 director, officer, employee, or agent. An order issued pursuant
19 to this Section shall be served upon the director, officer,
20 employee, or agent. A copy of the order shall be sent to each
21 director of the corporate fiduciary affected by personal
22 service, certified mail return receipt requested, or any other
23 method that provides proof of service and receipt. ~~The person~~
24 ~~affected by the action may request a hearing before the State~~
25 ~~Banking Board of Illinois, hereafter "the Board", within 10~~
26 ~~days after receipt of the order of removal or prohibition. The~~

1 ~~hearing shall be held by the Board according to the same~~
2 ~~procedures used pursuant to Section 48 of the Illinois Banking~~
3 ~~Act, and the hearing shall be held within 30 days after the~~
4 ~~request has been received by the Board. After concluding the~~
5 ~~hearing, the Board shall make a determination approving,~~
6 ~~modifying, or disapproving the order of the Commissioner as its~~
7 ~~final administrative decision.~~ A copy of the order shall be
8 served upon the corporate fiduciary of which the person is a
9 director, officer, employee, or agent, whereupon the person
10 shall cease to be a director, officer, employee, or agent of
11 the corporate fiduciary. Any person who has been removed or
12 prohibited by an order of the Secretary Commissioner under this
13 Section or subsection (7) of Section 48 of the Illinois Banking
14 Act may not thereafter serve as director, officer, employee, or
15 agent of any State bank or corporate fiduciary, or of any other
16 entity that is subject to licensure or regulation by the
17 Division of Banking Commissioner ~~or the Office of Banks and~~
18 ~~Real Estate~~ unless the Secretary Commissioner has granted prior
19 approval in writing. The Secretary Commissioner may institute a
20 civil action against the director, officer, employee, or agent
21 subject to an order issued under this Section and against the
22 corporate fiduciary to enforce compliance with or to enjoin any
23 violation of the terms of the order.

24 (Source: P.A. 92-483, eff. 8-23-01.)

25 (205 ILCS 620/5-8) (from Ch. 17, par. 1555-8)

1 Sec. 5-8. All final administrative decisions of the
2 Secretary Commissioner, ~~or of the State Banking Board of~~
3 ~~Illinois where this Act provides a hearing before such Board to~~
4 ~~review a decision of the Commissioner,~~ shall be subject to
5 review pursuant to the provisions of the Administrative Review
6 Law, as now or hereafter amended, and the rules adopted
7 pursuant thereto. For matters involving administrative review,
8 venue shall be in either Sangamon County or Cook County.
9 (Source: P.A. 86-754.)

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