



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1422

Introduced 2/11/2009, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

205 ILCS 205/1007.35	from Ch. 17, par. 7301-7.35
205 ILCS 205/2001.40 new	
205 ILCS 205/8015	from Ch. 17, par. 7308-15
205 ILCS 205/11003	from Ch. 17, par. 7311-3
205 ILCS 205/11005	from Ch. 17, par. 7311-5

Amends the Savings Bank Act. Changes the definition of "control" to include certain persons or entities that engage in specific activities that have 10% or more of the capital stock or members shares of a mutual savings bank or mutual savings bank holding company. Provides that no person, whether acting directly or indirectly or through or in concert with one or more persons, may acquire control of a savings bank operating under the Act without prior approval of the Commissioner of Banks and Real Estate. Specifies the activities that the Commissioner may engage in with respect to investigating or approving the change in control of a savings bank. Provides that the Commissioner may prohibit participation in the affairs of any savings bank by any current, former, or prospective officer, director, employee, or agent of a savings bank, if he or she finds that the person or persons engages in specified activities. Provides that "institution affiliated party" includes a person who has filed or is required to file a change-in-control application (instead of change-in-control notice) with the Commissioner. Effective immediately.

LRB096 09148 MJR 19297 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 Savings Bank Act is amended by changing
5 Sections 1007.35, 8015, 11003, and 11005 and by adding Section
6 2001.40 as follows:

7 (205 ILCS 205/1007.35) (from Ch. 17, par. 7301-7.35)

8 Sec. 1007.35. "Control", unless specified otherwise in
9 this Act, shall mean:

10 (1) the ability of any person, entity, persons, or
11 entities acting alone or in concert with one or more
12 persons or entities, to own, hold, or direct with power to
13 vote, or to hold proxies representing, 10% or more of the
14 voting shares or rights of capital stock of a savings bank,
15 savings bank subsidiary, savings bank affiliate, or
16 savings bank holding company or 10% or more of the members
17 shares of a mutual savings bank or mutual savings bank
18 holding company;

19 (2) the ability to achieve in any manner the election
20 or appointment of a majority of the directors of a savings
21 bank; or

22 (3) the power to direct or exercise significant
23 influence over the management or policies of the savings

1 bank or savings bank affiliate.

2 "Control" does not include the voting of proxies obtained
3 from depositors if the proxies are voted as directed by a
4 majority of the board of directors of the savings bank or of a
5 committee of directors when the committee's composition and
6 powers may be revoked by a majority vote of the board of
7 directors.

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

9 (205 ILCS 205/2001.40 new)

10 Sec. 2001.40. Company. "Company" means any corporation,
11 limited liability company, partnership, joint venture, trust,
12 estate, association, or unincorporated association.

13 (205 ILCS 205/8015) (from Ch. 17, par. 7308-15)

14 Sec. 8015. Change in control.

15 (a) No person, whether acting directly or indirectly or
16 through or in concert with one or more persons, may acquire
17 control of a savings bank operating under this Act without
18 prior approval of the Commissioner. Any person, whether acting
19 directly or indirectly or through or in concert with one or
20 more persons, shall give the Commissioner 60 days written
21 notice of intent to acquire control of a savings bank or
22 savings bank affiliate operating under this Act. The
23 Commissioner shall promulgate rules to implement this
24 provision including definitions, application, procedures,

1 ~~standards for approval or disapproval.~~

2 (b) Any person seeking to acquire control of a savings bank
3 or subsidiary of a savings bank operating under this Act shall
4 submit an application in the form required by the Commissioner.
5 ~~The Commissioner may examine the books and records of any~~
6 ~~person giving notice of intent to acquire control of a savings~~
7 ~~bank operating under this Act.~~

8 (c) The Commissioner may examine the books and records of
9 the applicant and related persons, investigate any matter
10 relevant to the application, and require the applicant to
11 submit additional information and documents. ~~The Commissioner~~
12 ~~may approve or disapprove an application for change of control.~~

13 (d) The Commissioner shall not approve an acquisition of
14 control unless the application and related examination and
15 investigation permit the Commissioner to find positively on all
16 of the following matters:

17 (1) The applicant has filed a complete application, has
18 cooperated with all examinations and investigations of the
19 Commissioner, and has submitted all information and
20 documents requested by the Commissioner.

21 (2) The applicant and proposed management have the
22 necessary competence, experience, integrity, and financial
23 ability.

24 (3) The business plans of the applicant are consistent
25 with the safe and sound operation of the savings bank and
26 the purposes of this Act.

1 (4) The acquisition of control would not be inequitable
2 to members, borrowers or creditors of the savings bank.

3 (5) The applicant and proposed management have
4 complied with subsection (e) of this Section.

5 (e) Shares of stock or mutual members shares acquired in
6 violation of subsection (a) of this Section shall not be voted
7 and shall not be counted in calculating the total number of
8 shares eligible to vote. In addition to any other action
9 authorized under this Act, the Commissioner may require
10 divestment of shares of stock acquired in violation of this
11 Section and may require retirement of the withdrawal value of
12 accounts providing mutual member voting shares acquired in
13 violation of this Section, in which case the savings bank shall
14 pay accrued interest on the retired withdrawal value and shall
15 not assess any penalty for early withdrawal.

16 (f) An individual, whether acting directly or indirectly or
17 through or in concert with one or more persons, shall file
18 written notice to the Commissioner within 10 days of the
19 occurrence of either of the following events:

20 (1) becoming, directly or indirectly, the beneficial
21 owner of more than five percent of the voting shares of a
22 savings bank or savings bank holding company; or

23 (2) obtaining, directly or indirectly, the power to
24 cast more than five percent of the member votes of a
25 savings bank or savings bank holding company.

26 The requirements of this subsection (f) are separate and in

1 addition to the requirements of subsection (a) of this Section.

2 (g) The Commissioner may promulgate rules to implement this
3 provision, including definitions, form and content of
4 application or notice, procedures, exemptions, and
5 requirements for approval.

6 (Source: P.A. 92-483, eff. 8-23-01; 92-811, eff. 8-21-02.)

7 (205 ILCS 205/11003) (from Ch. 17, par. 7311-3)

8 Sec. 11003. Removal and prohibition authority.

9 (a) In addition to other provisions of this Act concerning
10 officers and directors, the Commissioner may remove or suspend
11 from any savings bank operating under this Act any officer,
12 director, employee, or agent of a savings bank, and the
13 Commissioner may prohibit participation in the affairs of any
14 savings bank by any current, former, or prospective officer,
15 director, employee, or agent of a savings bank, if he finds any
16 of the following that:

17 (1) The person or persons have directly or indirectly
18 violated any law, regulation, or order including orders,
19 conditions, and agreements between the savings bank and the
20 Commissioner or between the savings bank and its federal
21 regulators.

22 (2) The person or persons have breached their fiduciary
23 or professional responsibilities to the savings bank.

24 (3) The person or persons have engaged or participated
25 in unsafe action in conducting the business of a savings

1 bank, a savings bank holding company, or a savings bank
2 affiliate.

3 (4) The person or persons have obstructed or impeded an
4 examination or investigation of a savings bank, a savings
5 bank holding company, or savings bank affiliate.

6 (5) The person or persons have similarly behaved
7 towards any other insured depository institution or
8 otherwise regulated entity or that the person or persons
9 are the subject of any final order issued by the federal
10 insurer, the Office of the Comptroller of the Currency, the
11 Federal Reserve Board, a state financial institutions
12 regulator, the Securities and Exchange Commission, or by a
13 state or federal court of law.

14 (b) The Commissioner may serve upon a party a written
15 notice of the Commissioner's intention to remove or suspend the
16 party from office in the savings bank or to prohibit any
17 participation in any manner by the party in the affairs of any
18 savings bank, if the Commissioner finds because of a violation
19 of subsection (a) any of the following ~~that~~:

20 (1) Any savings bank, other insured depository
21 institution, or other regulated entity has or probably will
22 suffer financial loss or other damage.

23 (2) The interests of the savings bank's depositors or
24 other insured depository institution's depositors have
25 been or could be prejudiced.

26 (3) The party has received financial gain or other

1 benefit by reason of the violation and the Commissioner
2 finds that the. ~~(4) The~~ violation or breach involves
3 personal dishonesty on the part of the party or
4 demonstrates willful or continuing disregard by the party
5 for the safety and soundness of the savings bank or other
6 insured depository institution.

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

8 (205 ILCS 205/11005) (from Ch. 17, par. 7311-5)

9 Sec. 11005. Institution affiliated party. As used in this
10 Act, the term "institution affiliated party" shall mean a
11 director, officer, employee, agent, or controlling stockholder
12 of a savings bank operating under this Act; a person who has
13 filed or is required to file a change-in-control application
14 ~~notice~~ with the Commissioner; any person subject to an order of
15 or a party to an agreement with the Commissioner pertaining to
16 a savings bank; a shareholder of, consultant to, joint venture
17 partner of, or an independent contractor for (including
18 accountants, appraisers and attorneys) any other person who
19 participates in a significant way in the affairs of a savings
20 bank operating under this Act.

21 (Source: P.A. 91-97, eff. 7-9-99.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.