



Sen. Jacqueline Y. Collins

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09600SB2101sam004

LRB096 11443 MJR 30006 a

1 AMENDMENT TO SENATE BILL 2101

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2101 by replacing  
3 everything after the enacting clause with the following:

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.~~

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

2 (20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

3 Sec. 3.01. "Board" means the State Banking Board of  
4 Illinois ~~Board of Trustees of the Illinois Bank Examiners'~~  
5 ~~Education Foundation~~ created by the Illinois Banking Act ~~this~~  
6 ~~Act.~~

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

8 (20 ILCS 3210/3.07 new)

9 Sec. 3.07. Division of Banking. "Division of Banking" means  
10 the Division of Banking of the Department of Financial and  
11 Professional Regulation.

12 (20 ILCS 3210/4) (from Ch. 17, par. 404)

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

1 duties. The continuing education and professional training  
2 activity to be funded by the Foundation shall be a supplement  
3 to the education and training expenditures regularly being made  
4 from the Bank & Trust Company Fund for such purposes.

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

6 (20 ILCS 3210/5) (from Ch. 17, par. 405)

7 Sec. 5. The Foundation shall be governed by the State  
8 Banking Board of Illinois ~~a Board of Trustees. The Board shall~~  
9 ~~consist of the following trustees: the Commissioner, who shall~~  
10 ~~be its chairman; one Class A member and three Class B members~~  
11 ~~from the State Banking Board of Illinois, appointed by the~~  
12 ~~Governor.~~

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

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

22 (20 ILCS 3210/8) (from Ch. 17, par. 408)

23 Sec. 8. No ~~Neither the Commissioner nor any~~ member of the  
24 Board shall be subject to any civil liability or penalty,

1 whether for damages or otherwise, on account of or for any  
2 action taken or omitted to be taken in their respective  
3 official capacities, except when such acts or omissions to act  
4 are corrupt or malicious or unless such action is taken or  
5 omitted to be taken not in good faith and without reasonable  
6 grounds.

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

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

10 (205 ILCS 5/2) (from Ch. 17, par. 302)

11 Sec. 2. General definitions. In this Act, unless the  
12 context otherwise requires, the following words and phrases  
13 shall have the following meanings:

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

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

19 "Affiliate facility" of a bank means a main banking  
20 premises or branch of another commonly owned bank. The main  
21 banking premises or any branch of a bank may be an "affiliate  
22 facility" with respect to one or more other commonly owned  
23 banks.

24 "Appropriate federal banking agency" means the Federal

1 Deposit Insurance Corporation, the Federal Reserve Bank of  
2 Chicago, or the Federal Reserve Bank of St. Louis, as  
3 determined by federal law.

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

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

1 accordance with paragraph (17) of Section 5 of this Act, or  
2 (ii) of a commonly owned bank by virtue of transactions  
3 conducted at that place on behalf of the other commonly owned  
4 bank under paragraph (23) of Section 5 of this Act if the place  
5 is an affiliate facility with respect to the other bank.

6 "Branch of an out-of-state bank" means a branch established  
7 or maintained in Illinois by an out-of-state bank as a result  
8 of a merger between an Illinois bank and the out-of-state bank  
9 that occurs on or after May 31, 1997, or any branch established  
10 by the out-of-state bank following the merger.

11 "Bylaws" means the bylaws of a bank that are adopted by the  
12 bank's board of directors or shareholders for the regulation  
13 and management of the bank's affairs. If the bank operates as a  
14 limited liability company, however, "bylaws" means the  
15 operating agreement of the bank.

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

19 "Capital" includes the aggregate of outstanding capital  
20 stock and preferred stock.

21 "Cash flow reserve account" means the account within the  
22 books and records of the Commissioner of Banks and Real Estate  
23 used to record funds designated to maintain a reasonable Bank  
24 and Trust Company Fund operating balance to meet agency  
25 obligations on a timely basis.

26 "Charter" includes the original charter and all amendments

1 thereto and articles of merger or consolidation.

2 "Commissioner" means the Commissioner of Banks and Real  
3 Estate, except that beginning on April 6, 2009 (the effective  
4 date of Public Act 95-1047) ~~this amendatory Act of the 95th~~  
5 ~~General Assembly~~, all references in this Act to the  
6 Commissioner of Banks and Real Estate are deemed, in  
7 appropriate contexts, to be references to the Secretary of  
8 Financial and Professional Regulation.

9 "Commonly owned banks" means 2 or more banks that each  
10 qualify as a bank subsidiary of the same bank holding company  
11 pursuant to Section 18 of the Federal Deposit Insurance Act;  
12 "commonly owned bank" refers to one of a group of commonly  
13 owned banks but only with respect to one or more of the other  
14 banks in the same group.

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

19 "Company" means a corporation, limited liability company,  
20 partnership, business trust, association, or similar  
21 organization and, unless specifically excluded, includes a  
22 "State bank" and a "bank".

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

24 "Consolidation" takes place when 2 or more banks, or a  
25 trust company and a bank, are extinguished and by the same  
26 process a new bank is created, taking over the assets and

1 assuming the liabilities of the banks or trust company passing  
2 out of existence.

3 "Continuing bank" means a merging bank, the charter of  
4 which becomes the charter of the resulting bank.

5 "Converting bank" means a State bank converting to become a  
6 national bank, or a national bank converting to become a State  
7 bank.

8 "Converting trust company" means a trust company  
9 converting to become a State bank.

10 "Court" means a court of competent jurisdiction.

11 "Director" means a member of the board of directors of a  
12 bank. In the case of a manager-managed limited liability  
13 company, however, "director" means a manager of the bank and,  
14 in the case of a member-managed limited liability company,  
15 "director" means a member of the bank. The term "director" does  
16 not include an advisory director, honorary director, director  
17 emeritus, or similar person, unless the person is otherwise  
18 performing functions similar to those of a member of the board  
19 of directors.

20 "Director of Banking" means the Director of the Division of  
21 Banking of the Department of Financial and Professional  
22 Regulation.

23 "Eligible depository institution" means an insured savings  
24 association that is in default, an insured savings association  
25 that is in danger of default, a State or national bank that is  
26 in default or a State or national bank that is in danger of



1 default, as those terms are defined in this Section, or a new  
2 bank as that term defined in Section 11(m) of the Federal  
3 Deposit Insurance Act or a bridge bank as that term is defined  
4 in Section 11(n) of the Federal Deposit Insurance Act or a new  
5 federal savings association authorized under Section  
6 11(d) (2) (f) of the Federal Deposit Insurance Act.

7 "Fiduciary" means trustee, agent, executor, administrator,  
8 committee, guardian for a minor or for a person under legal  
9 disability, receiver, trustee in bankruptcy, assignee for  
10 creditors, or any holder of similar position of trust.

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

24 "Foundation" means the Illinois Bank Examiners' Education  
25 Foundation.

26 "General obligation" means a bond, note, debenture,

1 security, or other instrument evidencing an obligation of the  
2 government entity that is the issuer that is supported by the  
3 full available resources of the issuer, the principal and  
4 interest of which is payable in whole or in part by taxation.

5 "Guarantee" means an undertaking or promise to answer for  
6 payment of another's debt or performance of another's duty,  
7 liability, or obligation whether "payment guaranteed" or  
8 "collection guaranteed".

9 "In danger of default" means a State or national bank, a  
10 federally chartered insured savings association or an Illinois  
11 state chartered insured savings association with respect to  
12 which the Commissioner or the appropriate federal banking  
13 agency has advised the Federal Deposit Insurance Corporation  
14 that:

15 (1) in the opinion of the Commissioner or the  
16 appropriate federal banking agency,

17 (A) the State or national bank or insured savings  
18 association is not likely to be able to meet the  
19 demands of the State or national bank's or savings  
20 association's obligations in the normal course of  
21 business; and

22 (B) there is no reasonable prospect that the State  
23 or national bank or insured savings association will be  
24 able to meet those demands or pay those obligations  
25 without federal assistance; or

26 (2) in the opinion of the Commissioner or the

1 appropriate federal banking agency,

2 (A) the State or national bank or insured savings  
3 association has incurred or is likely to incur losses  
4 that will deplete all or substantially all of its  
5 capital; and

6 (B) there is no reasonable prospect that the  
7 capital of the State or national bank or insured  
8 savings association will be replenished without  
9 federal assistance.

10 "In default" means, with respect to a State or national  
11 bank or an insured savings association, any adjudication or  
12 other official determination by any court of competent  
13 jurisdiction, the Commissioner, the appropriate federal  
14 banking agency, or other public authority pursuant to which a  
15 conservator, receiver, or other legal custodian is appointed  
16 for a State or national bank or an insured savings association.

17 "Insured savings association" means any federal savings  
18 association chartered under Section 5 of the federal Home  
19 Owners' Loan Act and any State savings association chartered  
20 under the Illinois Savings and Loan Act of 1985 or a  
21 predecessor Illinois statute, the deposits of which are insured  
22 by the Federal Deposit Insurance Corporation. The term also  
23 includes a savings bank organized or operating under the  
24 Savings Bank Act.

25 "Insured savings association in recovery" means an insured  
26 savings association that is not an eligible depository

1 institution and that does not meet the minimum capital  
2 requirements applicable with respect to the insured savings  
3 association.

4 "Issuer" means for purposes of Section 33 every person who  
5 shall have issued or proposed to issue any security; except  
6 that (1) with respect to certificates of deposit, voting trust  
7 certificates, collateral-trust certificates, and certificates  
8 of interest or shares in an unincorporated investment trust not  
9 having a board of directors (or persons performing similar  
10 functions), "issuer" means the person or persons performing the  
11 acts and assuming the duties of depositor or manager pursuant  
12 to the provisions of the trust, agreement, or instrument under  
13 which the securities are issued; (2) with respect to trusts  
14 other than those specified in clause (1) above, where the  
15 trustee is a corporation authorized to accept and execute  
16 trusts, "issuer" means the entrusters, depositors, or creators  
17 of the trust and any manager or committee charged with the  
18 general direction of the affairs of the trust pursuant to the  
19 provisions of the agreement or instrument creating the trust;  
20 and (3) with respect to equipment trust certificates or like  
21 securities, "issuer" means the person to whom the equipment or  
22 property is or is to be leased or conditionally sold.

23 "Letter of credit" and "customer" shall have the meanings  
24 ascribed to those terms in Section 5-102 of the Uniform  
25 Commercial Code.

26 "Main banking premises" means the location that is

1 designated in a bank's charter as its main office.

2 "Maker or obligor" means for purposes of Section 33 the  
3 issuer of a security, the promisor in a debenture or other debt  
4 security, or the mortgagor or grantor of a trust deed or  
5 similar conveyance of a security interest in real or personal  
6 property.

7 "Merged bank" means a merging bank that is not the  
8 continuing, resulting, or surviving bank in a consolidation or  
9 merger.

10 "Merger" includes consolidation.

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

12 "Merging trust company" means a trust company party to a  
13 merger with a State bank.

14 "Mid-tier bank holding company" means a corporation that  
15 (a) owns 100% of the issued and outstanding shares of each  
16 class of stock of a State bank, (b) has no other subsidiaries,  
17 and (c) 100% of the issued and outstanding shares of the  
18 corporation are owned by a parent bank holding company.

19 "Municipality" means any municipality, political  
20 subdivision, school district, taxing district, or agency.

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

24 "Out-of-state bank" means a bank chartered under the laws  
25 of a state other than Illinois, a territory of the United  
26 States, or the District of Columbia.

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

5 "Person" means an individual, corporation, limited  
6 liability company, partnership, joint venture, trust, estate,  
7 or unincorporated association.

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

20 "Public funds" or "public money" means current operating  
21 funds, special funds, interest and sinking funds, and funds of  
22 any kind or character belonging to, in the custody of, or  
23 subject to the control or regulation of the United States or a  
24 public agency. "Public funds" or "public money" shall include  
25 funds held by any of the officers, agents, or employees of the  
26 United States or of a public agency in the course of their

1 official duties and, with respect to public money of the United  
2 States, shall include Postal Savings funds.

3 "Published" means, unless the context requires otherwise,  
4 the publishing of the notice or instrument referred to in some  
5 newspaper of general circulation in the community in which the  
6 bank is located at least once each week for 3 successive weeks.  
7 Publishing shall be accomplished by, and at the expense of, the  
8 bank required to publish. Where publishing is required, the  
9 bank shall submit to the Commissioner that evidence of the  
10 publication as the Commissioner shall deem appropriate.

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

23 "Recorded" means the filing or recording of the notice or  
24 instrument referred to in the office of the Recorder of the  
25 county wherein the bank is located.

26 "Resulting bank" means the bank resulting from a merger or

1 conversion.

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

5 "Securities" means stocks, bonds, debentures, notes, or  
6 other similar obligations.

7 "Stand-by letter of credit" means a letter of credit under  
8 which drafts are payable upon the condition the customer has  
9 defaulted in performance of a duty, liability, or obligation.

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

12 "State Banking Board" means the State Banking Board of  
13 Illinois.

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

20 "Surplus" means the aggregate of (i) amounts paid in excess  
21 of the par value of capital stock and preferred stock; (ii)  
22 amounts contributed other than for capital stock and preferred  
23 stock and allocated to the surplus account; and (iii) amounts  
24 transferred from undivided profits.

25 "Tier 1 Capital" and "Tier 2 Capital" have the meanings  
26 assigned to those terms in regulations promulgated for the



1 appropriate federal banking agency of a state bank, as those  
2 regulations are now or hereafter amended.

3 "Trust company" means a limited liability company or  
4 corporation incorporated in this State for the purpose of  
5 accepting and executing trusts.

6 "Undivided profits" means undistributed earnings less  
7 discretionary transfers to surplus.

8 "Unimpaired capital and unimpaired surplus", for the  
9 purposes of paragraph (21) of Section 5 and Sections 32, 33,  
10 34, 35.1, 35.2, and 47 of this Act means the sum of the state  
11 bank's Tier 1 Capital and Tier 2 Capital plus such other  
12 shareholder equity as may be included by regulation of the  
13 Commissioner. Unimpaired capital and unimpaired surplus shall  
14 be calculated on the basis of the date of the last quarterly  
15 call report filed with the Commissioner preceding the date of  
16 the transaction for which the calculation is made, provided  
17 that: (i) when a material event occurs after the date of the  
18 last quarterly call report filed with the Commissioner that  
19 reduces or increases the bank's unimpaired capital and  
20 unimpaired surplus by 10% or more, then the unimpaired capital  
21 and unimpaired surplus shall be calculated from the date of the  
22 material event for a transaction conducted after the date of  
23 the material event; and (ii) if the Commissioner determines for  
24 safety and soundness reasons that a state bank should calculate  
25 unimpaired capital and unimpaired surplus more frequently than  
26 provided by this paragraph, the Commissioner may by written

1 notice direct the bank to calculate unimpaired capital and  
2 unimpaired surplus at a more frequent interval. In the case of  
3 a state bank newly chartered under Section 13 or a state bank  
4 resulting from a merger, consolidation, or conversion under  
5 Sections 21 through 26 for which no preceding quarterly call  
6 report has been filed with the Commissioner, unimpaired capital  
7 and unimpaired surplus shall be calculated for the first  
8 calendar quarter on the basis of the effective date of the  
9 charter, merger, consolidation, or conversion.

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

12 (205 ILCS 5/48) (from Ch. 17, par. 359)

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

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

25 (2) (a) The Commissioner, as often as the Commissioner

1 shall deem necessary or proper, and no less frequently than 18  
2 months following the preceding examination, shall appoint a  
3 suitable person or persons to make an examination of the  
4 affairs of every State bank, except that for every eligible  
5 State bank, as defined by regulation, the Commissioner in lieu  
6 of the examination may accept on an alternating basis the  
7 examination made by the eligible State bank's appropriate  
8 federal banking agency pursuant to Section 111 of the Federal  
9 Deposit Insurance Corporation Improvement Act of 1991,  
10 provided the appropriate federal banking agency has made such  
11 an examination. A person so appointed shall not be a  
12 stockholder or officer or employee of any bank which that  
13 person may be directed to examine, and shall have powers to  
14 make a thorough examination into all the affairs of the bank  
15 and in so doing to examine any of the officers or agents or  
16 employees thereof on oath and shall make a full and detailed  
17 report of the condition of the bank to the Commissioner. In  
18 making the examination the examiners shall include an  
19 examination of the affairs of all the affiliates of the bank,  
20 as defined in subsection (b) of Section 35.2 of this Act, or  
21 subsidiaries of the bank as shall be necessary to disclose  
22 fully the conditions of the subsidiaries or affiliates, the  
23 relations between the bank and the subsidiaries or affiliates  
24 and the effect of those relations upon the affairs of the bank,  
25 and in connection therewith shall have power to examine any of  
26 the officers, directors, agents, or employees of the

1 subsidiaries or affiliates on oath. After May 31, 1997, the  
2 Commissioner may enter into cooperative agreements with state  
3 regulatory authorities of other states to provide for  
4 examination of State bank branches in those states, and the  
5 Commissioner may accept reports of examinations of State bank  
6 branches from those state regulatory authorities. These  
7 cooperative agreements may set forth the manner in which the  
8 other state regulatory authorities may be compensated for  
9 examinations prepared for and submitted to the Commissioner.

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

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

25 (a) that performance shall be subject to examination by  
26 the Commissioner to the same extent as if services were

1 being performed by the bank or, after May 31, 1997, branch  
2 of the out-of-state bank itself on its own premises; and

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

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

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

25 (a) Each bank shall pay to the Secretary a Call Report  
26 Fee which shall be paid in quarterly installments equal to

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

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

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

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

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

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

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



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

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

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

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

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

1 funds from the Bank and Trust Company Fund. Moneys in the  
2 Bank and Trust Company Fund may be transferred to the  
3 Professions Indirect Cost Fund, as authorized under  
4 Section 2105-300 of the Department of Professional  
5 Regulation Law of the Civil Administrative Code of  
6 Illinois.

7 Notwithstanding provisions in the State Finance Act,  
8 as now or hereafter amended, or any other law to the  
9 contrary, the sum of \$18,788,847 shall be transferred from  
10 the Bank and Trust Company Fund to the Financial  
11 Institutions Settlement of 2008 Fund on the effective date  
12 of this amendatory Act of the 95th General Assembly, or as  
13 soon thereafter as practical.

14 Notwithstanding provisions in the State Finance Act,  
15 as now or hereafter amended, or any other law to the  
16 contrary, the Governor may, during any fiscal year through  
17 January 10, 2011, from time to time direct the State  
18 Treasurer and Comptroller to transfer a specified sum not  
19 exceeding 10% of the revenues to be deposited into the Bank  
20 and Trust Company Fund during that fiscal year from that  
21 Fund to the General Revenue Fund in order to help defray  
22 the State's operating costs for the fiscal year.  
23 Notwithstanding provisions in the State Finance Act, as now  
24 or hereafter amended, or any other law to the contrary, the  
25 total sum transferred during any fiscal year through  
26 January 10, 2011, from the Bank and Trust Company Fund to

1 the General Revenue Fund pursuant to this provision shall  
2 not exceed during any fiscal year 10% of the revenues to be  
3 deposited into the Bank and Trust Company Fund during that  
4 fiscal year. The State Treasurer and Comptroller shall  
5 transfer the amounts designated under this Section as soon  
6 as may be practicable after receiving the direction to  
7 transfer from the Governor.

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

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

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

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

24 (4) Nothing contained in this Act shall be construed to  
25 limit the obligation relative to examinations and reports of  
26 any State bank, deposits in which are to any extent insured by

1 the United States or any agency thereof, nor to limit in any  
2 way the powers of the Commissioner with reference to  
3 examinations and reports of that bank.

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

22 (6) The Commissioner shall have the power:

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

25 (a-5) To impose conditions on any approval issued by  
26 the Commissioner if he determines that the conditions are

1           necessary or appropriate. These conditions shall be  
2           imposed in writing and shall continue in effect for the  
3           period prescribed by the Commissioner.

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

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

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

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



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

5 (e) To conduct hearings.

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

1 subsidiary or bank holding company of the bank, violated any  
2 law, rule, or order relating to that State bank or any  
3 subsidiary or bank holding company of the bank, obstructed or  
4 impeded any examination or investigation by the Secretary  
5 ~~Commissioner~~, engaged in an unsafe or unsound practice in  
6 conducting the business of that bank or any subsidiary or bank  
7 holding company of the bank, or violated any law or engaged or  
8 participated in any unsafe or unsound practice in connection  
9 with any financial institution or other business entity such  
10 that the character and fitness of the director, officer,  
11 employee, or agent would not have assured reasonable promise of  
12 safe and sound operation of the State bank, the Secretary  
13 ~~Commissioner~~ may issue an order prohibiting that person from  
14 further service with a bank or any subsidiary or bank holding  
15 company of the bank as a director, officer, employee, or agent.  
16 An order issued pursuant to this subsection shall be served  
17 upon the director, officer, employee, or agent. A copy of the  
18 order shall be sent to each director of the bank affected by  
19 registered mail. ~~The person affected by the action may request~~  
20 ~~a hearing before the State Banking Board within 10 days after~~  
21 ~~receipt of the order. The hearing shall be held by the Board~~  
22 ~~within 30 days after the request has been received by the~~  
23 ~~Board. The Board shall make a determination approving,~~  
24 ~~modifying, or disapproving the order of the Commissioner as its~~  
25 ~~final administrative decision. If a hearing is held by the~~  
26 ~~Board, the Board shall make its determination within 60 days~~

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

26 For purposes of this paragraph (7), "bank holding company"

1 has the meaning prescribed in Section 2 of the Illinois Bank  
2 Holding Company Act of 1957.

3 (8) The Commissioner may impose civil penalties of up to  
4 \$10,000 against any person for each violation of any provision  
5 of this Act, any rule promulgated in accordance with this Act,  
6 any order of the Commissioner, or any other action which in the  
7 Commissioner's discretion is an unsafe or unsound banking  
8 practice.

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

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

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

21 (a) (Blank).

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

1 Examiners' Education Foundation.

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

22 (12) (Blank).

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

24 (205 ILCS 5/78) (from Ch. 17, par. 390)

25 Sec. 78. Board of banks and trust companies; creation,

1 members, appointment. There is created a Board which shall be  
2 known as the State Banking Board of Illinois which shall  
3 consist of the Director of Banking Commissioner, who shall be  
4 its chairman, and 11 16 additional members. The Board shall be  
5 comprised of individuals interested in the banking industry.  
6 Two members shall be from State banks having total assets of  
7 not more than \$75,000,000 at the time of their appointment; 2  
8 members shall be from State banks having total assets of more  
9 than \$75,000,000, but not more than \$150,000,000 at the time of  
10 their appointment; 2 members shall be from State banks having  
11 total assets of more than \$150,000,000, but not more than  
12 \$500,000,000 at the time of their appointment; 2 members shall  
13 be from State banks having total assets of more than  
14 \$500,000,000, but not more than \$2,000,000,000 at the time of  
15 their appointment, and one member shall be from a State bank  
16 having total assets of more than \$2,000,000,000 at the time of  
17 his or her appointment. There shall be 2 public members,  
18 neither of whom shall be an officer or director of or owner,  
19 whether directly or indirectly, of more than 5% of the  
20 outstanding capital stock of any bank. ~~divided into 3 classes~~  
21 designated Class A members, Class B members, and Class C  
22 members who are appointed by the Governor by and with the  
23 advice and consent of the Senate and made up as follows:

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

1       ~~Class B shall consist of 10 persons who at the time of~~  
2 ~~their respective appointments shall have had not less than 10~~  
3 ~~years banking experience. Of the 10 Class B members, 2 shall be~~  
4 ~~from State banks having total assets of not more than~~  
5 ~~\$20,000,000 at the time of their appointment, 2 shall be from~~  
6 ~~State banks having total assets of more than \$20,000,000 but~~  
7 ~~not more than \$50,000,000 at the time of their appointment, 2~~  
8 ~~shall be from State banks having total assets of more than~~  
9 ~~\$50,000,000, but not more than \$125,000,000 at the time of~~  
10 ~~their appointment, one shall be from a State bank having total~~  
11 ~~assets of more than \$125,000,000 but not more than \$250,000,000~~  
12 ~~at the time of appointment, one shall be from a State bank~~  
13 ~~having total assets of more than \$250,000,000 but not more than~~  
14 ~~\$1,000,000,000 at the time of appointment, one shall be from a~~  
15 ~~State bank having total assets of more than \$1,000,000,000 at~~  
16 ~~the time of appointment and one shall be from a foreign banking~~  
17 ~~corporation certificated pursuant to the Foreign Banking~~  
18 ~~Office Act.~~

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

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

22       (205 ILCS 5/79) (from Ch. 17, par. 391)

23       Sec. 79. Board, terms of office. The terms of office of the  
24 ~~Class A and Class B members~~ of the State Banking Board of  
25 Illinois shall be 4 years, except that the initial Board

1 appointments shall be staggered with the Governor initially  
2 appointing, with advice and consent of the Senate, 3 members to  
3 serve 2-year terms, 4 members to serve 3-year terms, and 4  
4 members to serve 4-year terms. Members shall continue to serve  
5 on the Board until their replacement is appointed and  
6 qualified. Vacancies shall be filled by appointment by the  
7 Governor with advice and consent of the Senate. Board of Banks  
8 and Trust Companies who are in office on the effective date of  
9 this Amendatory Act of 1985 shall expire on December 31, 1985.  
10 The terms of office of Class A, Class B, and Class C members of  
11 the State Banking Board shall be as follows:

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

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

22 ~~(c) The persons first appointed as Class B members of the~~  
23 ~~State Banking Board shall have the following terms as~~  
24 ~~designated by the Governor; one member for a term of one year,~~  
25 ~~3 members for a term of 2 years, 3 members for a term of 3~~  
26 ~~years, and 3 members for a term of 4 years. Thereafter, the~~



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

4 ~~(c-5) The initial term of office of each Class C member of~~  
5 ~~the State Banking Board appointed pursuant to this amendatory~~  
6 ~~Act of the 91st General Assembly shall expire on January 1,~~  
7 ~~2004. Thereafter, the term of office of each Class C member~~  
8 ~~shall be 4 years, except that an appointment to fill a vacancy~~  
9 ~~shall be for the unexpired term of the member whose term is~~  
10 ~~being filled.~~

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

13 ~~(c) The term of office of a State Banking Board member~~  
14 ~~shall terminate automatically when the member no longer meets~~  
15 ~~the qualifications for the member's appointment to the Board~~  
16 ~~provided that an increase or decrease in the asset size of the~~  
17 ~~member's bank during the member's term of office on the State~~  
18 ~~Banking Board shall not result in the termination of the~~  
19 ~~member's term of office.~~

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

21 (205 ILCS 5/80) (from Ch. 17, par. 392)

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

25 (a) (Blank). ~~To make, alter, and amend rules and~~

1 ~~regulations proposed for adoption by the Commissioner with~~  
2 ~~respect to the following matters:~~

3 ~~(i) The scope and nature of showings to be furnished~~  
4 ~~and evidence to be presented in connection with the~~  
5 ~~granting of charters of new banks, and in connection with~~  
6 ~~the approval by the Commissioner of mergers, conversions,~~  
7 ~~consolidations and changes of location, and the forms upon~~  
8 ~~which any of such showings may be made.~~

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

13 ~~(iii) The form, content and nature of the reports to be~~  
14 ~~furnished to the Commissioner under Section 47 of this Act,~~  
15 ~~and the definition of the scope of examinations and the~~  
16 ~~data to be furnished in connection with examinations by the~~  
17 ~~Commissioner under subsection (2) and subsection (5) of~~  
18 ~~Section 48 of this Act.~~

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

21 (c) (Blank). ~~To require the Commissioner to report~~  
22 ~~periodically to the Board on any banking matters, including the~~  
23 ~~following:~~

24 ~~(i) Data with respect to banks whose condition or~~  
25 ~~practices are being critically considered or reviewed by~~  
26 ~~the Commissioner pursuant to Section 51 of this Act, and~~

1 ~~data with respect to banks to which any notice has been~~  
2 ~~given by the Commissioner pursuant to said Section 51; and~~

3 ~~(ii) The extent and nature of all disciplinary action~~  
4 ~~taken by the Commissioner against any bank or any officer~~  
5 ~~or director thereof, and information with respect to the~~  
6 ~~manner or extent of the remedial action, if any, taken by~~  
7 ~~the criticized bank or director or officer; and~~

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

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

13 (d) (Blank). ~~To require the Commissioner to furnish the~~  
14 ~~Board reports in respect of the granting or of the denial of~~  
15 ~~new charters, mergers, changes of location, conversions or~~  
16 ~~consolidations, including the findings made and the basis for~~  
17 ~~the action taken by the Commissioner in connection therewith.~~

18 (e) To review, consider, and submit to the Director of  
19 Banking Commissioner and to the Governor proposals for  
20 amendments to this Act or for changes in or additions to the  
21 administration thereof which in the opinion of the Board are  
22 necessary or desirable in order to assure the safe and sound  
23 conduct of the banking business.

24 (f) (Blank). ~~To require the Commissioner to furnish the~~  
25 ~~Board space for meetings to be held by the Board as well as to~~  
26 ~~require the Commissioner to provide such clerical and technical~~

1 ~~assistance as the Board may require.~~

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

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

5 (ii) A majority of the quorum shall constitute  
6 effective action except that a vote of a majority of the  
7 whole Board shall be necessary for ~~the approval of rules~~  
8 ~~and regulations proposed for adoption by the Commissioner~~  
9 ~~under Section 80(a), (i), (ii) and (iii) of this Act and~~  
10 ~~shall be necessary for~~ recommendations made to the Director  
11 of Banking Commissioner and to the Governor with regard to  
12 proposed amendments to this Act or to the administrative  
13 practices hereunder.

14 (iii) The Board shall meet at least once in each  
15 calendar year and upon the call of the Director of Banking  
16 Commissioner or a majority of the Board. The Director of  
17 Banking Commissioner or a majority of the Board may call  
18 such special or additional meetings as may be deemed  
19 necessary or desirable.

20 (h) (Blank). ~~To make rules to regulate the method of~~  
21 ~~selecting candidates for consideration by the Governor to fill~~  
22 ~~a vacancy in the Office of the Commissioner and the deputy~~  
23 ~~commissioners.~~

24 (i) (Blank). ~~To make rules to regulate the method of~~  
25 ~~selecting candidates for consideration by the Governor to fill~~  
26 ~~a vacancy in the office of any of the 10 Class B members of the~~

1 ~~Board.~~

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

4 (k) (Blank). ~~To subpoena witnesses, to compel their~~  
5 ~~attendance, to administer an oath, to examine any person under~~  
6 ~~oath and to require the production of any relevant books,~~  
7 ~~papers, accounts and documents in the course of and pursuant to~~  
8 ~~any hearing being conducted under subsection (7) of Section 48~~  
9 ~~of this Act.~~

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

12 (m) To authorize the transfer of funds from the Illinois  
13 Bank Examiners' Education Fund to the Bank and Trust Company  
14 Fund. Any amount transferred shall be retransferred to the  
15 Illinois Bank Examiners' Education Fund from the Bank and Trust  
16 Company Fund within 3 years.

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

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

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

1 (205 ILCS 5/82) (from Ch. 17, par. 394)

2 Sec. 82. Commissioner, board; civil liability. Neither the  
3 Secretary, Director of Banking, Commissioner, any deputy  
4 commissioner, any member of the Board of Banks and Trust  
5 Companies, any member of the State Banking Board of Illinois,  
6 nor any examiner, assistant examiner or other employee of the  
7 Division of Banking Commissioner's office shall be subject to  
8 any civil liability or penalty, whether for damages or  
9 otherwise, on account of or for any action taken or omitted to  
10 be taken in their respective official capacities, except when  
11 such acts or omissions to act are corrupt or malicious or  
12 unless such action is taken or omitted to be taken not in good  
13 faith and without reasonable grounds.

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

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

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

18 Sec. 2. Unless the context requires otherwise:

19 (a) "Bank" means any national banking association or any  
20 bank, banking association or savings bank, whether organized  
21 under the laws of Illinois, another state, the United States,  
22 the District of Columbia, any territory of the United States,  
23 Puerto Rico, Guam, American Samoa or the Virgin Islands, which

1 (1) accepts deposits that the depositor has a legal right to  
2 withdraw on demand by check or other negotiable order and (2)  
3 engages in the business of making commercial loans. "Bank" does  
4 not include any organization operating under Sections 25 or 25  
5 (a) of the Federal Reserve Act, or any organization which does  
6 not do business within the United States except as an incident  
7 to its activities outside the United States or any foreign  
8 bank.

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

12 (c) "Banking office" means the principal office of a bank,  
13 any branch of a bank, or any other office at which a bank  
14 accepts deposits, provided, however, that "banking office"  
15 shall not mean:

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

19 (2) offices located outside the United States.

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

23 (e) "Commissioner" means the Commissioner of Banks and Real  
24 Estate or a person authorized by the Commissioner, the Office  
25 of Banks and Real Estate Act, or this Act to act in the  
26 Commissioner's stead, except that beginning on the effective

1 date of this amendatory Act of the 96th General Assembly, all  
2 references in this Act to the Commissioner of Banks and Real  
3 Estate are deemed, in appropriate contexts, to be references to  
4 the Secretary of Financial and Professional Regulation.

5 (f) "Community" means the contiguous area served by the  
6 banking offices of a bank, but need not be limited or expanded  
7 to conform to the geographic boundaries of units of local  
8 government.

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

23 (h) A company "controls or has control over" a bank or  
24 company if (1) it directly or indirectly owns or controls or  
25 has the power to vote, 25% or more of the voting shares of any  
26 class of voting securities of such bank or company or (2) it



1 controls in any manner the election of a majority of the  
2 directors or trustees of such bank or company or (3) a trustee  
3 holds for the benefit of its shareholders, members or  
4 employees, 25% or more of the voting shares of such bank or  
5 company or (4) it directly or indirectly exercises a  
6 controlling influence over the management or policies of such  
7 bank or company that is a bank holding company and the Board of  
8 Governors of the Federal Reserve System has so determined under  
9 the federal Bank Holding Company Act. In determining whether  
10 any company controls or has control over a bank or company: (i)  
11 shares owned or controlled by any subsidiary of a company shall  
12 be deemed to be indirectly owned or controlled by such company;  
13 (ii) shares held or controlled, directly or indirectly, by a  
14 trustee or trustees for the benefit of a company, the  
15 shareholders or members of a company or the employees (whether  
16 exclusively or not) of a company, shall be deemed to be  
17 controlled by such company; and (iii) shares transferred,  
18 directly or indirectly, by any bank holding company (or by any  
19 company which, but for such transfer, would be a bank holding  
20 company) to any transferee that is indebted to the transferor  
21 or that has one or more officers, directors, trustees or  
22 beneficiaries in common with or subject to control by the  
23 transferor, shall be deemed to be indirectly owned or  
24 controlled by the transferor unless the Board of Governors of  
25 the Federal Reserve System has determined, under the federal  
26 Bank Holding Company Act, that the transferor is not in fact

1 capable of controlling the transferee. Notwithstanding the  
2 foregoing, no company shall be deemed to have control of or  
3 over a bank or bank holding company (A) by virtue of its  
4 ownership or control of shares in a fiduciary capacity arising  
5 in the ordinary course of its business; (B) by virtue of its  
6 ownership or control of shares acquired by it in connection  
7 with its underwriting of securities which are held only for  
8 such period of time as will permit the sale thereof upon a  
9 reasonable basis; (C) by virtue of its holding any shares as  
10 collateral taken in the ordinary course of securing a debt or  
11 other obligation; (D) by virtue of its ownership or control of  
12 shares acquired in the ordinary course of collecting a debt or  
13 other obligation previously contracted in good faith, until 5  
14 years after the date acquired; or (E) by virtue of its voting  
15 rights with respect to shares of any bank or bank holding  
16 company acquired in the course of a proxy solicitation in the  
17 case of a company formed and operated for the sole purpose of  
18 participating in a proxy solicitation.

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

21 (i) "Federal Bank Holding Company Act" means the  
22 federal Bank Holding Company Act of 1956, as now or  
23 hereafter amended.

24 (j) "Foreign bank" means any company organized under the  
25 laws of a foreign country which engages in the business of  
26 banking or any subsidiary or affiliate of any such company,

1 organized under such laws. "Foreign bank" includes, without  
2 limitation, foreign merchant banks and other foreign  
3 institutions that engage in banking activities usual in  
4 connection with the business of banking in the countries where  
5 such foreign institutions are organized or operating.

6 (k) "Home state" means the home state of a foreign bank as  
7 determined pursuant to the federal International Banking Act of  
8 1978.

9 (l) "Illinois bank" means a bank:

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

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

13 (m) "Illinois bank holding company" means a bank holding  
14 company:

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

16 (2) that is not directly or indirectly controlled by  
17 another bank holding company whose principal place of  
18 business is a state other than Illinois or by a foreign  
19 bank whose Home State is a state other than Illinois.

20 An out of state bank holding company that acquires control  
21 of one or more Illinois banks or Illinois bank holding  
22 companies pursuant to Sections 3.061 or 3.071 shall not be  
23 deemed an Illinois bank holding company.

24 (n) "Main banking premises" means the location that is  
25 designated in a bank's charter as its main office and that is  
26 within the state in which the total deposits held by all of the

1 banking offices of such bank are the largest, as shown in the  
2 most recent reports of condition or similar reports filed by  
3 such bank with state or federal regulatory authorities.

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

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

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

8 (p) "Out of state bank holding company" means a bank  
9 holding company:

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

11 (2) whose principal place of business is a state other  
12 than Illinois the laws of which expressly authorize the  
13 acquisition by an Illinois bank holding company of a bank  
14 or bank holding company in that state under qualifications  
15 and conditions which are not unduly restrictive, as  
16 determined by the Secretary ~~Commissioner~~, when compared to  
17 those imposed by the laws of Illinois.

18 (q) "Principal place of business" means, with respect to a  
19 bank holding company, the state in which the total deposits  
20 held by all of the banking offices of all of the bank  
21 subsidiaries of such bank holding company are the largest, as  
22 shown in the most recent reports of condition or similar  
23 reports filed by the bank holding company's bank subsidiaries  
24 with state or federal regulatory authorities.

25 (q-5) "Secretary" means the Secretary of Financial and  
26 Professional Regulation, or a person authorized by the

1 Secretary or by this Act to act in the Secretary's stead.

2 (r) "State" or "states" when used in this Act means any  
3 State of the United States, the District of Columbia, any  
4 territory of the United States, Puerto Rico, Guam, American  
5 Samoa or the Virgin Islands.

6 (s) "Subsidiary", with respect to a specified bank holding  
7 company, means any bank or company controlled by such bank  
8 holding company.

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

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

11 Sec. 3.074. Powers; administrative review.

12 (a) The Secretary ~~Commissioner~~ shall have the power and  
13 authority:

14 (1) to promulgate reasonable procedural rules for the  
15 purposes of administering the provisions of this Act. The  
16 Secretary ~~Commissioner~~ shall specify the form of any  
17 application, report or document that is required to be  
18 filed with the Secretary ~~Commissioner~~ pursuant to this Act;

19 (2) to issue orders for the purpose of administering  
20 the provisions of this Act and any rule promulgated in  
21 accordance with this Act;

22 (3) to appoint hearing officers to execute any of the  
23 powers granted to the Secretary ~~Commissioner~~ under this  
24 Section for the purpose of administering this Act or any  
25 rule promulgated in accordance with this Act; and

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

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

1 ~~Commissioner~~, any former director, officer, employee, or agent  
2 of a bank holding company or subsidiary or affiliate of that  
3 company, prior to the termination of his or her service with  
4 that holding company or subsidiary or affiliate of that  
5 company, violated any law, rule, or order relating to that bank  
6 holding company or subsidiary or affiliate of that company,  
7 obstructed or impeded any examination or investigation by the  
8 Secretary ~~Commissioner~~, engaged in an unsafe or unsound  
9 practice in conducting the business of that bank holding  
10 company or subsidiary or affiliate of that company, or violated  
11 any law or engaged or participated in any unsafe or unsound  
12 practice in connection with any financial institution or other  
13 business entity such that the character and fitness of the  
14 director, officer, employee, or agent would not have assured  
15 reasonable promise of safe and sound operation of the bank  
16 holding company, the Secretary ~~Commissioner~~ may issue an order  
17 prohibiting that person from further service with a bank  
18 holding company or subsidiary or affiliate of that company as a  
19 director, officer, employee, or agent.

20 An order issued pursuant to this subsection shall be served  
21 upon the director, officer, employee, or agent. A copy of the  
22 order shall be sent to each director of the bank holding  
23 company affected by registered mail. ~~The person affected by the~~  
24 ~~action may request a hearing before the State Banking Board~~  
25 ~~within 10 days after receipt of the order. The hearing shall be~~  
26 ~~held by the State Banking Board within 30 days after the~~

1 ~~request has been received by the State Banking Board. The State~~  
2 ~~Banking Board shall make a determination approving, modifying,~~  
3 ~~or disapproving the order of the Commissioner as its final~~  
4 ~~administrative decision. If a hearing is held by the State~~  
5 ~~Banking Board, the State Banking Board shall make its~~  
6 ~~determination within 60 days from the conclusion of the~~  
7 ~~hearing. Any person affected by a decision of the State Banking~~  
8 ~~Board under this subsection may have the decision reviewed only~~  
9 ~~under and in accordance with the Administrative Review Law and~~  
10 ~~the rules adopted pursuant thereto. A copy of the order shall~~  
11 also be served upon the bank holding company of which he is a  
12 director, officer, employee, or agent, whereupon he shall cease  
13 to be a director, officer, employee, or agent of that bank  
14 holding company.

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

20 Any person who has been the subject of an order of removal  
21 or an order of prohibition issued by the Secretary ~~Commissioner~~  
22 under this subsection, subdivision (7) of Section 48 of the  
23 Illinois Banking Act, or Section 5-6 of the Corporate Fiduciary  
24 Act may not thereafter serve as director, officer, employee, or  
25 agent of any holding company, State bank, or branch of any  
26 out-of-state bank, of any corporate fiduciary, as defined in



1 Section 1-5.05 of the Corporate Fiduciary Act, or of any other  
2 entity that is subject to licensure or regulation by the  
3 Division of Banking Commissioner ~~or the Office of Banks and~~  
4 ~~Real Estate~~ unless the Secretary Commissioner has granted prior  
5 approval in writing.

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

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

12 Section 20. The Corporate Fiduciary Act is amended by  
13 changing Sections 1-5.03, 5-6, and 5-8 and by adding Sections  
14 1-5.07a and 1-5.09a as follows:

15 (205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

16 Sec. 1-5.03. "Commissioner" means the Commissioner of  
17 Banks and Real Estate or a person authorized by the  
18 Commissioner, the Office of Banks and Real Estate Act, or this  
19 Act to act in the Commissioner's stead, except that beginning  
20 on the effective date of this amendatory Act of the 96th  
21 General Assembly, all references in this Act to the  
22 Commissioner of Banks and Real Estate are deemed, in  
23 appropriate contexts, to be references to the Secretary of  
24 Financial and Professional Regulation.

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

2 (205 ILCS 620/1-5.07a new)

3 Sec. 1-5.07a. Division of Banking. "Division of Banking"  
4 means the Division of Banking of the Department of Financial  
5 and Professional Regulation.

6 (205 ILCS 620/1-5.09a new)

7 Sec. 1-5.09a. Secretary. "Secretary" means the Secretary  
8 of Financial and Professional Regulation, or a person  
9 authorized by the Secretary or by this Act to act in the  
10 Secretary's stead.

11 (205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

12 Sec. 5-6. Removal orders. Whenever, in the opinion of the  
13 Secretary ~~Commissioner~~, any director, officer, employee, or  
14 agent of a corporate fiduciary or subsidiary or corporate  
15 parent of the corporate fiduciary shall have violated any law,  
16 rule, or order relating to the corporate fiduciary or  
17 subsidiary or corporate parent of the corporate fiduciary,  
18 shall have engaged in an unsafe or unsound practice in  
19 conducting the business of the corporate fiduciary or  
20 subsidiary or corporate parent of the corporate fiduciary, or  
21 shall have violated any law or engaged or participated in any  
22 unsafe or unsound practice in connection with any financial  
23 institution or other business entity such that the character

1 and fitness of the director, officer, employee, or agent does  
2 not assure reasonable promise of safe and sound operation of  
3 the corporate fiduciary or subsidiary or corporate parent of  
4 the corporate fiduciary, the Secretary ~~Commissioner~~ may issue  
5 an order of removal. If in the opinion of the Secretary  
6 ~~Commissioner~~, any former director, officer, employee, or agent  
7 of a corporate fiduciary or subsidiary or corporate parent of  
8 the corporate fiduciary, prior to the termination of his or her  
9 service with the corporate fiduciary or subsidiary or corporate  
10 parent of the corporate fiduciary, violated any law, rule, or  
11 order relating to the corporate fiduciary or subsidiary or  
12 corporate parent of the corporate fiduciary or engaged in an  
13 unsafe or unsound practice in conducting the business of the  
14 corporate fiduciary or subsidiary or corporate parent of the  
15 corporate fiduciary or violated any law or engaged or  
16 participated in any unsafe or unsound practice in connection  
17 with any financial institution or other business entity such  
18 that the character and fitness of the director, officer,  
19 employee, or agent would not have assured reasonable promise of  
20 safe and sound operation of the corporate fiduciary or  
21 subsidiary or corporate parent of the corporate fiduciary, the  
22 Secretary ~~Commissioner~~ may issue an order prohibiting that  
23 person from further service with a corporate fiduciary or  
24 subsidiary or corporate parent of the corporate fiduciary as a  
25 director, officer, employee, or agent. An order issued pursuant  
26 to this Section shall be served upon the director, officer,

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

1 civil action against the director, officer, employee, or agent  
2 subject to an order issued under this Section and against the  
3 corporate fiduciary to enforce compliance with or to enjoin any  
4 violation of the terms of the order.

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

6 (205 ILCS 620/5-8) (from Ch. 17, par. 1555-8)

7 Sec. 5-8. All final administrative decisions of the  
8 Secretary Commissioner, or of the State Banking Board of  
9 ~~Illinois where this Act provides a hearing before such Board to~~  
10 ~~review a decision of the Commissioner,~~ shall be subject to  
11 review pursuant to the provisions of the Administrative Review  
12 Law, as now or hereafter amended, and the rules adopted  
13 pursuant thereto. For matters involving administrative review,  
14 venue shall be in either Sangamon County or Cook County.

15 (Source: P.A. 86-754.)".