

1 AN ACT concerning financial regulation.

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

4 Section 5. The Office of Banks and Real Estate Act is
5 amended by changing Sections 0.1, 0.2, and 5 as follows:

6 (20 ILCS 3205/0.1)

7 Sec. 0.1. Short title. This Act may be cited as the
8 Division of Banking ~~Office of Banks and Real Estate Act.~~

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

10 (20 ILCS 3205/0.2)

11 Sec. 0.2. Definitions. For the purposes of this Act, unless
12 the context otherwise requires:

13 "Commissioner" means the Secretary of Financial and
14 Professional Regulation ~~Commissioner of Banks and Real Estate,~~
15 or a person authorized by the Secretary ~~Commissioner,~~ the
16 Division of Banking Act, or by this Act to act in the
17 Secretary's ~~Commissioner's~~ stead.

18 "Division" means the Division of Banking within the
19 Department of Financial and Professional Regulation.

20 "Office" means the Division of Banking within the
21 Department of Financial and Professional Regulation ~~Office of~~
22 ~~Banks and Real Estate.~~

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

2 (20 ILCS 3205/5) (from Ch. 17, par. 455)

3 Sec. 5. Powers. In addition to all the other powers and
4 duties provided by law, the Commissioner shall have the
5 following powers:

6 (a) To exercise the rights, powers and duties formerly
7 vested by law in the Director of Financial Institutions under
8 the Illinois Banking Act.

9 (b) To exercise the rights, powers and duties formerly
10 vested by law in the Department of Financial Institutions under
11 "An act to provide for and regulate the administration of
12 trusts by trust companies", approved June 15, 1887, as amended.

13 (c) To exercise the rights, powers and duties formerly
14 vested by law in the Director of Financial Institutions under
15 "An act authorizing foreign corporations, including banks and
16 national banking associations domiciled in other states, to act
17 in a fiduciary capacity in this state upon certain conditions
18 herein set forth", approved July 13, 1953, as amended.

19 (c-5) To exercise all of the rights, powers, and duties
20 granted to the Director or Secretary under the Illinois Banking
21 Act, the Corporate Fiduciary Act, the Electronic Fund Transfer
22 Act, the Illinois Bank Holding Company Act of 1957, the Savings
23 Bank Act, the Illinois Savings and Loan Act of 1985, the
24 Savings and Loan Share and Account Act, the Residential
25 Mortgage License Act of 1987, and the Pawnbroker Regulation

1 Act.

2 (d) Whenever the Commissioner is authorized or required by
3 law to consider or to make findings regarding the character of
4 incorporators, directors, management personnel, or other
5 relevant individuals under the Illinois Banking Act, the
6 Corporate Fiduciary Act, the Pawnbroker Regulation Act, or at
7 other times as the Commissioner deems necessary for the purpose
8 of carrying out the Commissioner's statutory powers and
9 responsibilities, the Commissioner shall consider criminal
10 history record information, including nonconviction
11 information, pursuant to the Criminal Identification Act. The
12 Commissioner shall, in the form and manner required by the
13 Department of State Police and the Federal Bureau of
14 Investigation, cause to be conducted a criminal history record
15 investigation to obtain information currently contained in the
16 files of the Department of State Police or the Federal Bureau
17 of Investigation, provided that the Commissioner need not cause
18 additional criminal history record investigations to be
19 conducted on individuals for whom the Commissioner, a federal
20 bank regulatory agency, or any other government agency has
21 caused such investigations to have been conducted previously
22 unless such additional investigations are otherwise required
23 by law or unless the Commissioner deems such additional
24 investigations to be necessary for the purposes of carrying out
25 the Commissioner's statutory powers and responsibilities. The
26 Department of State Police shall provide, on the Commissioner's

1 request, information concerning criminal charges and their
2 disposition currently on file with respect to a relevant
3 individual. Information obtained as a result of an
4 investigation under this Section shall be used in determining
5 eligibility to be an incorporator, director, management
6 personnel, or other relevant individual in relation to a
7 financial institution or other entity supervised by the
8 Commissioner. Upon request and payment of fees in conformance
9 with the requirements of Section 2605-400 of the Department of
10 State Police Law (20 ILCS 2605/2605-400), the Department of
11 State Police is authorized to furnish, pursuant to positive
12 identification, such information contained in State files as is
13 necessary to fulfill the request.

14 (e) When issuing charters, permits, licenses, or other
15 authorizations, the Commissioner may impose such terms and
16 conditions on the issuance as he deems necessary or
17 appropriate. Failure to abide by those terms and conditions may
18 result in the revocation of the issuance, the imposition of
19 corrective orders, or the imposition of civil money penalties.

20 (f) If the Commissioner has reasonable cause to believe
21 that any entity that has not submitted an application for
22 authorization or licensure is conducting any activity that
23 would otherwise require authorization or licensure by the
24 Commissioner, the Commissioner shall have the power to subpoena
25 witnesses, to compel their attendance, ~~and~~ to require the
26 production of any relevant books, papers, accounts, and

1 documents, and to conduct an examination of the entity in order
2 to determine whether the entity is subject to authorization or
3 licensure by the Commissioner or the Division ~~Office of Banks~~
4 ~~and Real Estate~~. If the Secretary determines that the entity is
5 subject to authorization or licensure by the Secretary, then
6 the Secretary shall have the power to issue orders against or
7 take any other action, including initiating a receivership
8 against the unauthorized or unlicensed entity.

9 (g) The Commissioner may, through the Attorney General,
10 request the circuit court of any county to issue an injunction
11 to restrain any person from violating the provisions of any Act
12 administered by the Commissioner.

13 (h) Whenever the Commissioner is authorized to take any
14 action or required by law to consider or make findings, the
15 Commissioner may delegate or appoint, in writing, an officer or
16 employee of the Division ~~Office of Banks and Real Estate~~ to
17 take that action or make that finding.

18 (i) Whenever the Secretary determines that it is in the
19 public's interest, he or she may publish any cease and desist
20 order or other enforcement action issued by the Division.

21 (Source: P.A. 91-239, eff. 1-1-00; 92-483, eff. 8-23-01.)

22 Section 10. The Illinois Bank Examiners' Education
23 Foundation Act is amended by changing Section 3.02 and by
24 adding Section 3.025 as follows:

1 (20 ILCS 3210/3.02) (from Ch. 17, par. 403.2)

2 Sec. 3.02. "Commissioner" means the Secretary of Financial
3 and Professional Regulation ~~Commissioner of Banks and Real~~
4 ~~Estate~~ or a person authorized by the Secretary ~~Commissioner,~~
5 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or
6 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

8 (20 ILCS 3210/3.025 new)

9 Sec. 3.025. Division. "Division" means the Division of
10 Banking within the Department of Financial and Professional
11 Regulation.

12 Section 15. The Illinois Banking Act is amended by changing
13 Sections 13, 32, 40, 48, 51, and 52 as follows:

14 (205 ILCS 5/13) (from Ch. 17, par. 320)

15 Sec. 13. Issuance of charter.

16 (a) When the directors have organized as provided in
17 Section 12 of this Act, and the capital stock and the preferred
18 stock, if any, together with a surplus of not less than 50% of
19 the capital, has been all fully paid in and a record of the
20 same filed with the Commissioner, the Commissioner or some
21 competent person of the Commissioner's appointment shall make a
22 thorough examination into the affairs of the proposed bank, and
23 if satisfied (i) that all the requirements of this Act have

1 been complied with, (ii) that no intervening circumstance has
2 occurred to change the Commissioner's findings made pursuant to
3 Section 10 of this Act, and (iii) that the prior involvement by
4 any stockholder who will own a sufficient amount of stock to
5 have control, as defined in Section 18 of this Act, of the
6 proposed bank with any other financial institution, whether as
7 stockholder, director, officer, or customer, was conducted in a
8 safe and sound manner, upon payment into the Commissioner's
9 office of the reasonable expenses of the examination, as
10 determined by the Commissioner, the Commissioner shall issue a
11 charter authorizing the bank to commence business as authorized
12 in this Act. All charters issued by the Commissioner or any
13 predecessor agency which chartered State banks, including any
14 charter outstanding as of September 1, 1989, shall be
15 perpetual. For the 2 years after the Commissioner has issued a
16 charter to a bank, the bank shall request and obtain from the
17 Commissioner prior written approval before it may change senior
18 management personnel or directors.

19 The original charter, duly certified by the Commissioner,
20 or a certified copy shall be evidence in all courts and places
21 of the existence and authority of the bank to do business. Upon
22 the issuance of the charter by the Commissioner, the bank shall
23 be deemed fully organized and may proceed to do business. The
24 Commissioner may, in the Commissioner's discretion, withhold
25 the issuing of the charter when the Commissioner has reason to
26 believe that the bank is organized for any purpose other than

1 that contemplated by this Act. The Commissioner shall revoke
2 the charter and order liquidation in the event that the bank
3 does not commence a general banking business within one year
4 from the date of the issuance of the charter, unless a request
5 has been submitted, in writing, to the Commissioner for an
6 extension and the request has been approved. After commencing a
7 general banking business, a bank may change its name by filing
8 written notice with the Commissioner at least 30 days prior to
9 the effective date of such change. A bank chartered under this
10 Act may change its main banking premises by filing written
11 application with the Commissioner, on forms prescribed by the
12 Commissioner, provided (i) the change shall not be a removal to
13 a new location without complying with the capital requirements
14 of Section 7 and of subsection (1) of Section 10 of this Act;
15 (ii) the Commissioner approves the relocation or change; and
16 (iii) the bank complies with any applicable federal law or
17 regulation. The application shall be deemed to be approved if
18 the Commissioner has not acted on the application within 30
19 days after receipt of the application, unless within the 30-day
20 time frame the Commissioner informs the bank that an extension
21 of time is necessary prior to the Commissioner's action on the
22 application.

23 (b) (1) The Commissioner may also issue a charter to a bank
24 that is owned exclusively by other depository institutions
25 or depository institution holding companies and is
26 organized to engage exclusively in providing services to or

1 for other financial institutions, their holding companies,
2 and the officers, directors, and employees of such
3 institutions and companies, and in providing services at
4 the request of other financial institutions or their
5 holding companies (also referred to as a "bankers' bank").
6 The bank may also provide products and services to its
7 officers, directors, and employees.

8 (2) A bank chartered pursuant to paragraph (1) shall,
9 except as otherwise specifically determined or limited by
10 the Commissioner in an order or pursuant to a rule, be
11 vested with the same rights and privileges and subject to
12 the same duties, restrictions, penalties, and liabilities
13 now or hereafter imposed under this Act.

14 (c) A bank chartered under this Act shall ~~after November 1,~~
15 ~~1985, and an out-of-state bank that merges with a State bank~~
16 ~~and establishes or maintains a branch in this State after May~~
17 ~~31, 1997, shall obtain from and, at all times while it accepts~~
18 or retains deposits, maintain with the Federal Deposit
19 Insurance Corporation, or such other instrumentality of or
20 corporation chartered by the United States, deposit insurance
21 as authorized under federal law.

22 (d) (i) A bank that has a banking charter issued by the
23 Commissioner under this Act may, pursuant to a written
24 purchase and assumption agreement, transfer substantially
25 all of its assets to another State bank or national bank in
26 consideration, in whole or in part, for the transferee

1 banks' assumption of any part or all of its liabilities.
2 Such a transfer shall in no way be deemed to impair the
3 charter of the transferor bank or cause the transferor bank
4 to forfeit any of its rights, powers, interests,
5 franchises, or privileges as a State bank, nor shall any
6 voluntary reduction in the transferor bank's activities
7 resulting from the transfer have any such effect; provided,
8 however, that a State bank that transfers substantially all
9 of its assets pursuant to this subsection (d) and following
10 the transfer does not accept deposits and make loans, shall
11 not have any rights, powers, interests, franchises, or
12 privileges under subsection (15) of Section 5 of this Act
13 until the bank has resumed accepting deposits and making
14 loans.

15 (ii) The fact that a State bank does not resume
16 accepting deposits and making loans for a period of 24
17 months commencing on September 11, 1989 or on a date of the
18 transfer of substantially all of a State bank's assets,
19 whichever is later, or such longer period as the
20 Commissioner may allow in writing, may be the basis for a
21 finding by the Commissioner under Section 51 of this Act
22 that the bank is unable to continue operations.

23 (iii) The authority provided by subdivision (i) of this
24 subsection (d) shall terminate on May 31, 1997, and no bank
25 that has transferred substantially all of its assets
26 pursuant to this subsection (d) shall continue in existence

1 after May 31, 1997.

2 (Source: P.A. 95-924, eff. 8-26-08.)

3 (205 ILCS 5/32) (from Ch. 17, par. 339)

4 Sec. 32. Basic loaning limits.

5 (a) For purposes of this Section, the Secretary may
6 prescribe the definition of "liabilities outstanding" by rule.

7 (b) The liabilities outstanding at one time to a state bank
8 of a person for money borrowed, including the liabilities of a
9 partnership or joint venture in the liabilities of the several
10 members thereof, shall not exceed 25% of the amount of the
11 unimpaired capital and unimpaired surplus of the bank.

12 The liabilities to any state bank of a person may exceed
13 25% of the unimpaired capital and unimpaired surplus of the
14 bank, provided that (i) the excess amount from time to time
15 outstanding is fully secured by readily marketable collateral
16 having a market value, as determined by reliable and
17 continuously available quotations, at least equal to the excess
18 amount outstanding; and (ii) the total liabilities shall not
19 exceed 30% of the unimpaired capital and unimpaired surplus of
20 the bank.

21 The following shall not be considered as money borrowed
22 within the meaning of this Section:

23 (1) The purchase or discount of bills of exchange drawn
24 in good faith against actually existing values.

25 (2) The purchase or discount of commercial or business

1 paper actually owned by the person negotiating the same.

2 (3) The purchase of or loaning money in exchange for
3 evidences of indebtedness which shall be secured by
4 mortgage or trust deed upon productive real estate the
5 value of which, as ascertained by the oath of 2 qualified
6 appraisers, neither of whom shall be an officer, director,
7 or employee of the bank or of any subsidiary or affiliate
8 of the bank, is double the amount of the principal debt
9 secured at the time of the original purchase of evidence of
10 indebtedness or loan of money and which is still double the
11 amount of the principal debt secured at the time of any
12 renewal of the indebtedness or loan, and which mortgage or
13 trust deed is shown, either by a guaranty policy of a title
14 guaranty company approved by the Commissioner or by a
15 registrar's certificate of title in any county having
16 adopted the provisions of the Registered Titles (Torrens)
17 Act, or by the opinion of an attorney-at-law, to be a first
18 lien upon the real estate therein described, and real
19 estate shall not be deemed to be encumbered within the
20 meaning of this subsection (3) by reason of the existence
21 of instruments reserving rights-of-way, sewer rights and
22 rights in wells, building restrictions or other
23 restrictive covenants, nor by reason of the fact it is
24 subject to lease under which rents or profits are reserved
25 by the owners.

26 (4) The purchase of marketable investment securities.

1 (5) The liability to a state bank of a person who is an
2 accommodation party to, or guarantor of payment for, any
3 evidence of indebtedness of another person who obtains a
4 loan from or discounts paper with or sells paper to the
5 state bank; but the total liability to a state bank of a
6 person as an accommodation party or guarantor of payment in
7 respect of such evidences of indebtedness shall not exceed
8 25% of the amount of the unimpaired capital and unimpaired
9 surplus of the bank; provided however that the liability of
10 an accommodation party to paper excepted under subsection 2
11 of this Section shall not be included in the computation of
12 this limitation.

13 (6) The liability to a state bank of a person, who as a
14 guarantor, guarantees collection of the obligation or
15 indebtedness of another person.

16 The total liabilities of any one person, for money
17 borrowed, or otherwise, shall not exceed 25% of the deposits of
18 the bank, and those total liabilities shall at no time exceed
19 50% of the amount of the unimpaired capital and unimpaired
20 surplus of the bank. Absent an actual unremedied breach, the
21 obligation or responsibility for breach of warranties or
22 representations, express or implied, of a person transferring
23 negotiable or non-negotiable paper to a bank without recourse
24 and without guaranty of payment, shall not be included in
25 determining the amount of liabilities of the person to the bank
26 for borrowed money or otherwise; and in the event of and to the

1 extent of an unremedied breach, the amount remaining unpaid for
2 principal and interest on the paper in respect of which the
3 unremedied breach exists shall thereafter for the purpose of
4 determining whether subsequent transactions giving rise to
5 additional liability of the person to the state bank for
6 borrowed money or otherwise are within the limitations of
7 Sections 32 through 34 of this Act, be included in computing
8 the amount of liabilities of the person for borrowed money or
9 otherwise.

10 The liability of a person to a state bank on account of
11 acceptances made or issued by the state bank on behalf of the
12 person shall be included in the computation of the total
13 liabilities of the person for money borrowed except to the
14 extent the acceptances grow out of transactions of the
15 character described in subsection (6) of Section 34 of this Act
16 and are otherwise within the limitations of that subsection;
17 provided nevertheless that any such excepted acceptances
18 acquired by the state bank which accepted the same shall be
19 included in the computation of the liabilities of the person to
20 the state bank for money borrowed.

21 The Secretary may adopt rules to address the funding by
22 banks of any loan commitment, when such funding would involve
23 additional extensions of credit to be made after the unimpaired
24 capital and unimpaired surplus of the bank have decreased and
25 the Secretary determines that such decrease in unimpaired
26 capital and unimpaired surplus would cause the additional

1 extensions of credit to result in an unsafe and unsound
2 condition.

3 (Source: P.A. 92-336, eff. 8-10-01; 92-573, eff. 6-26-02.)

4 (205 ILCS 5/40) (from Ch. 17, par. 350)

5 Sec. 40. Prohibited activities. The Commissioner, deputy
6 commissioners, and employees of the Office of Banks and Real
7 Estate shall be subject to the restrictions provided in Section
8 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~
9 Act including, without limitation, the restrictions on (i)
10 owning shares of stock or holding any other equity interest in
11 an entity regulated under this Act or in any corporation or
12 company that owns or controls an entity regulated under this
13 Act; (ii) being an officer, director, employee, or agent of an
14 entity regulated under this Act; and (iii) obtaining a loan or
15 accepting a gratuity from an entity regulated under this Act.

16 (Source: P.A. 89-208, eff. 9-29-95; 89-508, eff. 7-3-96.)

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

18 Sec. 48. Secretary's powers; duties. The Secretary shall
19 have the powers and authority, and is charged with the duties
20 and responsibilities designated in this Act, and a State bank
21 shall not be subject to any other visitorial power other than
22 as authorized by this Act, except those vested in the courts,
23 or upon prior consultation with the Secretary, a foreign bank
24 regulator with an appropriate supervisory interest in the

1 parent or affiliate of a state bank. In the performance of the
2 Secretary's duties:

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

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

1 subsidiaries of the bank as shall be necessary to disclose
2 fully the conditions of the subsidiaries or affiliates, the
3 relations between the bank and the subsidiaries or affiliates
4 and the effect of those relations upon the affairs of the bank,
5 and in connection therewith shall have power to examine any of
6 the officers, directors, agents, or employees of the
7 subsidiaries or affiliates on oath. After May 31, 1997, the
8 Commissioner may enter into cooperative agreements with state
9 regulatory authorities of other states to provide for
10 examination of State bank branches in those states, and the
11 Commissioner may accept reports of examinations of State bank
12 branches from those state regulatory authorities. These
13 cooperative agreements may set forth the manner in which the
14 other state regulatory authorities may be compensated for
15 examinations prepared for and submitted to the Commissioner.

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

26 (2.5) Whenever any State bank, any subsidiary or affiliate

1 of a State bank, or after May 31, 1997, any branch of an
2 out-of-state bank causes to be performed, by contract or
3 otherwise, any bank services for itself, whether on or off its
4 premises:

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

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

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

25 (3) The expense of administering this Act, including the
26 expense of the examinations of State banks as provided in this

1 Act, shall to the extent of the amounts resulting from the fees
2 provided for in paragraphs (a), (a-2), and (b) of this
3 subsection (3) be assessed against and borne by the State
4 banks:

5 (a) Each bank shall pay to the Secretary a Call Report
6 Fee which shall be paid in quarterly installments equal to
7 one-fourth of the sum of the annual fixed fee of \$800, plus
8 a variable fee based on the assets shown on the quarterly
9 statement of condition delivered to the Secretary in
10 accordance with Section 47 for the preceding quarter
11 according to the following schedule: 16¢ per \$1,000 of the
12 first \$5,000,000 of total assets, 15¢ per \$1,000 of the
13 next \$20,000,000 of total assets, 13¢ per \$1,000 of the
14 next \$75,000,000 of total assets, 9¢ per \$1,000 of the next
15 \$400,000,000 of total assets, 7¢ per \$1,000 of the next
16 \$500,000,000 of total assets, and 5¢ per \$1,000 of all
17 assets in excess of \$1,000,000,000, of the State bank. The
18 Call Report Fee shall be calculated by the Secretary and
19 billed to the banks for remittance at the time of the
20 quarterly statements of condition provided for in Section
21 47. The Secretary may require payment of the fees provided
22 in this Section by an electronic transfer of funds or an
23 automatic debit of an account of each of the State banks.
24 In case more than one examination of any bank is deemed by
25 the Secretary to be necessary in any examination frequency
26 cycle specified in subsection 2(a) of this Section, and is

1 performed at his direction, the Secretary may assess a
2 reasonable additional fee to recover the cost of the
3 additional examination; provided, however, that an
4 examination conducted at the request of the State Treasurer
5 pursuant to the Uniform Disposition of Unclaimed Property
6 Act shall not be deemed to be an additional examination
7 under this Section. In lieu of the method and amounts set
8 forth in this paragraph (a) for the calculation of the Call
9 Report Fee, the Secretary may specify by rule that the Call
10 Report Fees provided by this Section may be assessed
11 semiannually or some other period and may provide in the
12 rule the formula to be used for calculating and assessing
13 the periodic Call Report Fees to be paid by State banks.

14 (a-1) If in the opinion of the Commissioner an
15 emergency exists or appears likely, the Commissioner may
16 assign an examiner or examiners to monitor the affairs of a
17 State bank with whatever frequency he deems appropriate,
18 including but not limited to a daily basis. The reasonable
19 and necessary expenses of the Commissioner during the
20 period of the monitoring shall be borne by the subject
21 bank. The Commissioner shall furnish the State bank a
22 statement of time and expenses if requested to do so within
23 30 days of the conclusion of the monitoring period.

24 (a-2) On and after January 1, 1990, the reasonable and
25 necessary expenses of the Commissioner during examination
26 of the performance of electronic data processing services

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

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

18 (b) "Fiscal year" for purposes of this Section 48 is
19 defined as a period beginning July 1 of any year and ending
20 June 30 of the next year. The Commissioner shall receive
21 for each fiscal year, commencing with the fiscal year
22 ending June 30, 1987, a contingent fee equal to the lesser
23 of the aggregate of the fees paid by all State banks under
24 paragraph (a) of subsection (3) for that year, or the
25 amount, if any, whereby the aggregate of the administration
26 expenses, as defined in paragraph (c), for that fiscal year

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

1 Commissioner for payment of the fee.

2 (c) The "administration expenses" for any fiscal year
3 shall mean the ordinary and contingent expenses for that
4 year incident to making the examinations provided for by,
5 and for otherwise administering, this Act, the Corporate
6 Fiduciary Act, excluding the expenses paid from the
7 Corporate Fiduciary Receivership account in the Bank and
8 Trust Company Fund, the Foreign Banking Office Act, the
9 Electronic Fund Transfer Act, and the Illinois Bank
10 Examiners' Education Foundation Act, including all
11 salaries and other compensation paid for personal services
12 rendered for the State by officers or employees of the
13 State, including the Commissioner and the Deputy
14 Commissioners, communication equipment and services,
15 office furnishings ~~all expenditures for telephone and~~
16 ~~telegraph charges, postage and postal charges, office~~
17 ~~stationery, supplies and services, and office furniture~~
18 ~~and equipment, including typewriters and copying and~~
19 ~~duplicating machines and filing equipment,~~ surety bond
20 premiums, and travel expenses of those officers and
21 employees, employees, expenditures or charges for the
22 acquisition, enlargement or improvement of, or for the use
23 of, any office space, building, or structure, or
24 expenditures for the maintenance thereof or for furnishing
25 heat, light, or power with respect thereto, all to the
26 extent that those expenditures are directly incidental to

1 such examinations or administration. The Commissioner
2 shall not be required by paragraphs (c) or (d-1) of this
3 subsection (3) to maintain in any fiscal year's budget
4 appropriated reserves for accrued vacation and accrued
5 sick leave that is required to be paid to employees of the
6 Commissioner upon termination of their service with the
7 Commissioner in an amount that is more than is reasonably
8 anticipated to be necessary for any anticipated turnover in
9 employees, whether due to normal attrition or due to
10 layoffs, terminations, or resignations.

11 (d) The aggregate of all fees collected by the
12 Secretary under this Act, the Corporate Fiduciary Act, or
13 the Foreign Banking Office Act on and after July 1, 1979,
14 shall be paid promptly after receipt of the same,
15 accompanied by a detailed statement thereof, into the State
16 treasury and shall be set apart in a special fund to be
17 known as the "Bank and Trust Company Fund", except as
18 provided in paragraph (c) of subsection (11) of this
19 Section. All earnings received from investments of funds in
20 the Bank and Trust Company Fund shall be deposited in the
21 Bank and Trust Company Fund and may be used for the same
22 purposes as fees deposited in that Fund. The amount from
23 time to time deposited into the Bank and Trust Company Fund
24 shall be used: (i) to offset the ordinary administrative
25 expenses of the Secretary as defined in this Section or
26 (ii) as a credit against fees under paragraph (d-1) of this

1 subsection (3). Nothing in this amendatory Act of 1979
2 shall prevent continuing the practice of paying expenses
3 involving salaries, retirement, social security, and
4 State-paid insurance premiums of State officers by
5 appropriations from the General Revenue Fund. However, the
6 General Revenue Fund shall be reimbursed for those payments
7 made on and after July 1, 1979, by an annual transfer of
8 funds from the Bank and Trust Company Fund. Moneys in the
9 Bank and Trust Company Fund may be transferred to the
10 Professions Indirect Cost Fund, as authorized under
11 Section 2105-300 of the Department of Professional
12 Regulation Law of the Civil Administrative Code of
13 Illinois.

14 Notwithstanding provisions in the State Finance Act,
15 as now or hereafter amended, or any other law to the
16 contrary, the sum of \$18,788,847 shall be transferred from
17 the Bank and Trust Company Fund to the Financial
18 Institutions Settlement of 2008 Fund on the effective date
19 of this amendatory Act of the 95th General Assembly, or as
20 soon thereafter as practical.

21 Notwithstanding provisions in the State Finance Act,
22 as now or hereafter amended, or any other law to the
23 contrary, the Governor may, during any fiscal year through
24 January 10, 2011, from time to time direct the State
25 Treasurer and Comptroller to transfer a specified sum not
26 exceeding 10% of the revenues to be deposited into the Bank

1 and Trust Company Fund during that fiscal year from that
2 Fund to the General Revenue Fund in order to help defray
3 the State's operating costs for the fiscal year.
4 Notwithstanding provisions in the State Finance Act, as now
5 or hereafter amended, or any other law to the contrary, the
6 total sum transferred during any fiscal year through
7 January 10, 2011, from the Bank and Trust Company Fund to
8 the General Revenue Fund pursuant to this provision shall
9 not exceed during any fiscal year 10% of the revenues to be
10 deposited into the Bank and Trust Company Fund during that
11 fiscal year. The State Treasurer and Comptroller shall
12 transfer the amounts designated under this Section as soon
13 as may be practicable after receiving the direction to
14 transfer from the Governor.

15 (d-1) Adequate funds shall be available in the Bank and
16 Trust Company Fund to permit the timely payment of
17 administration expenses. In each fiscal year the total
18 administration expenses shall be deducted from the total
19 fees collected by the Commissioner and the remainder
20 transferred into the Cash Flow Reserve Account, unless the
21 balance of the Cash Flow Reserve Account prior to the
22 transfer equals or exceeds one-fourth of the total initial
23 appropriations from the Bank and Trust Company Fund for the
24 subsequent year, in which case the remainder shall be
25 credited to State banks and foreign banking corporations
26 and applied against their fees for the subsequent year. The

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

22 (e) The Commissioner may upon request certify to any
23 public record in his keeping and shall have authority to
24 levy a reasonable charge for issuing certifications of any
25 public record in his keeping.

26 (f) In addition to fees authorized elsewhere in this

1 Act, the Commissioner may, in connection with a review,
2 approval, or provision of a service, levy a reasonable
3 charge to recover the cost of the review, approval, or
4 service.

5 (4) Nothing contained in this Act shall be construed to
6 limit the obligation relative to examinations and reports of
7 any State bank, deposits in which are to any extent insured by
8 the United States or any agency thereof, nor to limit in any
9 way the powers of the Commissioner with reference to
10 examinations and reports of that bank.

11 (5) The nature and condition of the assets in or investment
12 of any bonus, pension, or profit sharing plan for officers or
13 employees of every State bank or, after May 31, 1997, branch of
14 an out-of-state bank shall be deemed to be included in the
15 affairs of that State bank or branch of an out-of-state bank
16 subject to examination by the Commissioner under the provisions
17 of subsection (2) of this Section, and if the Commissioner
18 shall find from an examination that the condition of or
19 operation of the investments or assets of the plan is unlawful,
20 fraudulent, or unsafe, or that any trustee has abused his
21 trust, the Commissioner shall, if the situation so found by the
22 Commissioner shall not be corrected to his satisfaction within
23 60 days after the Commissioner has given notice to the board of
24 directors of the State bank or out-of-state bank of his
25 findings, report the facts to the Attorney General who shall
26 thereupon institute proceedings against the State bank or

1 out-of-state bank, the board of directors thereof, or the
2 trustees under such plan as the nature of the case may require.

3 (6) The Commissioner shall have the power:

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

6 (a-5) To impose conditions on any approval issued by
7 the Commissioner if he determines that the conditions are
8 necessary or appropriate. These conditions shall be
9 imposed in writing and shall continue in effect for the
10 period prescribed by the Commissioner.

11 (b) To issue orders against any person, if the
12 Commissioner has reasonable cause to believe that an unsafe
13 or unsound banking practice has occurred, is occurring, or
14 is about to occur, if any person has violated, is
15 violating, or is about to violate any law, rule, or written
16 agreement with the Commissioner, or for the purpose of
17 administering the provisions of this Act and any rule
18 promulgated in accordance with this Act.

19 (b-1) To enter into agreements with a bank establishing
20 a program to correct the condition of the bank or its
21 practices.

22 (c) To appoint hearing officers to execute any of the
23 powers granted to the Commissioner under this Section for
24 the purpose of administering this Act and any rule
25 promulgated in accordance with this Act and otherwise to
26 authorize, in writing, an officer or employee of the Office

1 of Banks and Real Estate to exercise his powers under this
2 Act.

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

12 (e) To conduct hearings.

13 (7) Whenever, in the opinion of the Commissioner, any
14 director, officer, employee, or agent of a State bank or any
15 subsidiary or bank holding company of the bank or, after May
16 31, 1997, of any branch of an out-of-state bank or any
17 subsidiary or bank holding company of the bank shall have
18 violated any law, rule, or order relating to that bank or any
19 subsidiary or bank holding company of the bank, shall have
20 obstructed or impeded any examination or investigation by the
21 Commissioner, shall have engaged in an unsafe or unsound
22 practice in conducting the business of that bank or any
23 subsidiary or bank holding company of the bank, or shall have
24 violated any law or engaged or participated in any unsafe or
25 unsound practice in connection with any financial institution
26 or other business entity such that the character and fitness of

1 the director, officer, employee, or agent does not assure
2 reasonable promise of safe and sound operation of the State
3 bank, the Commissioner may issue an order of removal. If, in
4 the opinion of the Commissioner, any former director, officer,
5 employee, or agent of a State bank or any subsidiary or bank
6 holding company of the bank, prior to the termination of his or
7 her service with that bank or any subsidiary or bank holding
8 company of the bank, violated any law, rule, or order relating
9 to that State bank or any subsidiary or bank holding company of
10 the bank, obstructed or impeded any examination or
11 investigation by the Commissioner, engaged in an unsafe or
12 unsound practice in conducting the business of that bank or any
13 subsidiary or bank holding company of the bank, or violated any
14 law or engaged or participated in any unsafe or unsound
15 practice in connection with any financial institution or other
16 business entity such that the character and fitness of the
17 director, officer, employee, or agent would not have assured
18 reasonable promise of safe and sound operation of the State
19 bank, the Commissioner may issue an order prohibiting that
20 person from further service with a bank or any subsidiary or
21 bank holding company of the bank as a director, officer,
22 employee, or agent. An order issued pursuant to this subsection
23 shall be served upon the director, officer, employee, or agent.
24 A copy of the order shall be sent to each director of the bank
25 affected by registered mail. The person affected by the action
26 may request a hearing before the State Banking Board within 10

1 days after receipt of the order. The hearing shall be held by
2 the Board within 30 days after the request has been received by
3 the Board. The Board shall make a determination approving,
4 modifying, or disapproving the order of the Commissioner as its
5 final administrative decision. If a hearing is held by the
6 Board, the Board shall make its determination within 60 days
7 from the conclusion of the hearing. Any person affected by a
8 decision of the Board under this subsection (7) of Section 48
9 of this Act may have the decision reviewed only under and in
10 accordance with the Administrative Review Law and the rules
11 adopted pursuant thereto. A copy of the order shall also be
12 served upon the bank of which he is a director, officer,
13 employee, or agent, whereupon he shall cease to be a director,
14 officer, employee, or agent of that bank. The Commissioner may
15 institute a civil action against the director, officer, or
16 agent of the State bank or, after May 31, 1997, of the branch
17 of the out-of-state bank against whom any order provided for by
18 this subsection (7) of this Section 48 has been issued, and
19 against the State bank or, after May 31, 1997, out-of-state
20 bank, to enforce compliance with or to enjoin any violation of
21 the terms of the order. Any person who has been the subject of
22 an order of removal or an order of prohibition issued by the
23 Commissioner under this subsection or Section 5-6 of the
24 Corporate Fiduciary Act may not thereafter serve as director,
25 officer, employee, or agent of any State bank or of any branch
26 of any out-of-state bank, or of any corporate fiduciary, as

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

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

8 (8) The Commissioner may impose civil penalties of up to
9 \$100,000 ~~\$10,000~~ against any person for each violation of any
10 provision of this Act, any rule promulgated in accordance with
11 this Act, excluding memorandums of understanding and written
12 agreements ~~any order of the Commissioner~~, or any other action
13 which in the Commissioner's discretion is an unsafe or unsound
14 banking practice.

15 (9) The Commissioner may impose civil penalties of up to
16 \$100 against any person for the first failure to comply with
17 reporting requirements set forth in the report of examination
18 of the bank and up to \$200 for the second and subsequent
19 failures to comply with those reporting requirements.

20 (10) All final administrative decisions of the
21 Commissioner hereunder shall be subject to judicial review
22 pursuant to the provisions of the Administrative Review Law.
23 For matters involving administrative review, venue shall be in
24 either Sangamon County or Cook County.

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

1 (a) (Blank).

2 (b) The Foundation is empowered to receive voluntary
3 contributions, gifts, grants, bequests, and donations on
4 behalf of the Illinois Bank Examiners' Education
5 Foundation from national banks and other persons for the
6 purpose of funding the endowment of the Illinois Bank
7 Examiners' Education Foundation.

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

1 (12) (Blank).

2 (13) The Secretary may borrow funds from the General
3 Revenue Fund on behalf of the Bank and Trust Company Fund if
4 the Director of Banking certifies to the Governor that there is
5 an economic emergency affecting banking that requires a
6 borrowing to provide additional funds to the Bank and Trust
7 Company Fund. The borrowed funds shall be paid back within 3
8 years and shall not exceed the total funding appropriated to
9 the Agency in the previous year.

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

11 (205 ILCS 5/51) (from Ch. 17, par. 363)

12 Sec. 51. Capital impairment, etc.; correction.

13 (a) If the Commissioner with respect to a State bank shall
14 find:

15 (1) its capital is impaired or it is otherwise in an
16 unsound condition; or

17 (2) its business is being conducted in an unlawful,
18 including, without limitation, in violation of any
19 provisions of State or federal law ~~this Act~~, or in a
20 fraudulent or unsafe manner; or

21 (3) it is unable to continue operations; or

22 (4) its examination has been obstructed or impeded; or

23 (5) that losses have occurred or are likely to occur
24 that have or will deplete all or substantially all of the
25 State bank's capital;

1 the Commissioner may give notice to the board of directors of
2 ~~or~~ his or her finding or findings. If the situation so found by
3 the Commissioner shall not be corrected to his satisfaction
4 within a period of at least 60 ~~sixty~~ but no more than 180 ~~one~~
5 ~~hundred and eighty~~ days after receipt of such notice, which
6 period shall be determined by the Commissioner and set forth in
7 the notice, the Commissioner at the termination of said period
8 may ~~shall~~ take possession and control of the bank and its
9 assets as in this Act provided for the purpose of examination,
10 reorganization or liquidation through receivership.

11 (b) If the Commissioner has given notice to the board of
12 directors of his findings, as provided in subsection (a), and
13 the time period prescribed in that notice has expired, the
14 Commissioner may extend the time period prescribed in that
15 notice for such period as the Commissioner deems appropriate.

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

17 (205 ILCS 5/52) (from Ch. 17, par. 364)

18 Sec. 52. Capital impairment, etc.; emergency. If, in
19 addition to a finding as provided in Section 51, the
20 Commissioner shall be of the opinion and shall find that an
21 emergency exists which may result in the inability of the bank
22 to continue in its operations, meet the demands of its
23 depositors, or pay its obligations in the normal course of
24 business ~~serious losses to the depositors~~, he may, in his
25 discretion, without having given the notice provided for in

1 Section 51, and whether or not proceedings under Section 51
2 have been instituted or are then pending, forthwith take
3 possession and control of the bank and its assets for the
4 purpose of examination, reorganization or liquidation through
5 receivership. For purposes of this Section, an emergency
6 includes, but is not limited to, when the bank is in an unsafe
7 or unsound condition that precludes continued operations or
8 when the interests of the bank's depositors are prejudiced.

9 (Source: Laws 1965, p. 2020.)

10 Section 20. The Illinois Bank Holding Company Act of 1957
11 is amended by changing Sections 2 and 3.074 as follows:

12 (205 ILCS 10/2) (from Ch. 17, par. 2502)

13 Sec. 2. Unless the context requires otherwise:

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

1 to its activities outside the United States or any foreign
2 bank.

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

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

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

13 (2) offices located outside the United States.

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

17 (e) "Commissioner" means the Secretary of Financial and
18 Professional Regulation ~~Commissioner of Banks and Real Estate~~
19 or a person authorized by the Secretary ~~Commissioner~~, the
20 Division of Banking ~~Office of Banks and Real Estate~~ Act, or
21 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

26 (g) "Company" means any corporation, business trust,

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

14 (h) A company "controls or has control over" a bank or
15 company if (1) it directly or indirectly owns or controls or
16 has the power to vote, 25% or more of the voting shares of any
17 class of voting securities of such bank or company or (2) it
18 controls in any manner the election of a majority of the
19 directors or trustees of such bank or company or (3) a trustee
20 holds for the benefit of its shareholders, members or
21 employees, 25% or more of the voting shares of such bank or
22 company or (4) it directly or indirectly exercises a
23 controlling influence over the management or policies of such
24 bank or company that is a bank holding company and the Board of
25 Governors of the Federal Reserve System has so determined under
26 the federal Bank Holding Company Act. In determining whether

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

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

10 (h-5) "Division" means the Division of Banking within the
11 Department of Financial and Professional Regulation.

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

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

22 (k) "Home state" means the home state of a foreign bank as
23 determined pursuant to the federal International Banking Act of
24 1978.

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

26 (1) that is organized under the laws of this State or

1 of the United States; and

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

3 (m) "Illinois bank holding company" means a bank holding
4 company:

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

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

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

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

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

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

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

24 (p) "Out of state bank holding company" means a bank
25 holding company:

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

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

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

15 (r) "State" or "states" when used in this Act means any
16 State of the United States, the District of Columbia, any
17 territory of the United States, Puerto Rico, Guam, American
18 Samoa or the Virgin Islands.

19 (s) "Subsidiary", with respect to a specified bank holding
20 company, means any bank or company controlled by such bank
21 holding company.

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

23 (205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

24 Sec. 3.074. Powers; administrative review.

25 (a) The Commissioner shall have the power and authority:

1 (1) to promulgate reasonable ~~procedural~~ rules for the
2 purposes of administering the provisions of this Act. The
3 Commissioner shall specify the form of any application,
4 report or document that is required to be filed with the
5 Commissioner pursuant to this Act;

6 (2) to issue orders for the purpose of administering
7 the provisions of this Act and any rule promulgated in
8 accordance with this Act;

9 (3) to appoint hearing officers to execute any of the
10 powers granted to the Commissioner under this Section for
11 the purpose of administering this Act or any rule
12 promulgated in accordance with this Act; ~~and~~

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

22 (5) to do any other act authorized to the Commissioner
23 under the Division of Banking Act.

24 (b) Whenever, in the opinion of the Commissioner, any
25 director, officer, employee, or agent of any bank holding
26 company or subsidiary or affiliate of that company shall have

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

1 not have assured reasonable promise of safe and sound operation
2 of the bank holding company, the Commissioner may issue an
3 order prohibiting that person from further service with a bank
4 holding company or subsidiary or affiliate of that company as a
5 director, officer, employee, or agent.

6 An order issued pursuant to this subsection shall be served
7 upon the director, officer, employee, or agent. A copy of the
8 order shall be sent to each director of the bank holding
9 company affected by registered mail. The person affected by the
10 action may request a hearing before the State Banking Board
11 within 10 days after receipt of the order. The hearing shall be
12 held by the State Banking Board within 30 days after the
13 request has been received by the State Banking Board. The State
14 Banking Board shall make a determination approving, modifying,
15 or disapproving the order of the Commissioner as its final
16 administrative decision. If a hearing is held by the State
17 Banking Board, the State Banking Board shall make its
18 determination within 60 days from the conclusion of the
19 hearing. Any person affected by a decision of the State Banking
20 Board under this subsection may have the decision reviewed only
21 under and in accordance with the Administrative Review Law and
22 the rules adopted pursuant thereto. A copy of the order shall
23 also be served upon the bank holding company of which he is a
24 director, officer, employee, or agent, whereupon he shall cease
25 to be a director, officer, employee, or agent of that bank
26 holding company.

1 The Commissioner may institute a civil action against the
2 director, officer, employee, or agent of the bank holding
3 company, against whom any order provided for by this subsection
4 has been issued, to enforce compliance with or to enjoin any
5 violation of the terms of the order.

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

17 (c) All final administrative decisions of the Commissioner
18 under this Act shall be subject to judicial review pursuant to
19 provisions of the Administrative Review Law. For matters
20 involving administrative review, venue shall be in either
21 Sangamon County or Cook County.

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

23 Section 25. The Illinois Savings and Loan Act of 1985 is
24 amended by changing Sections 1-10.04, 3-7, 7-1, 7-3, 7-4, 7-5,
25 7-20, 7-22, and 10-1 and by adding Sections 1-10.065, 10-15,

1 10-20, 10-25, 10-30, 10-35, 10-40, 10-45, 10-50, 10-55, 10-60,
2 10-65, 10-70, 10-75, 10-80, 10-85, 10-90, 10-95, and 10-100 as
3 follows:

4 (205 ILCS 105/1-10.04) (from Ch. 17, par. 3301-10.04)

5 Sec. 1-10.04. "Commissioner": the Secretary of Financial
6 and Professional Regulation ~~Commissioner of Banks and Real~~
7 ~~Estate~~ or some person authorized by the Secretary ~~Commissioner~~,
8 the Division of Banking ~~Office of Banks and Real Estate~~ Act, or
9 this Act to act in the Secretary's ~~Commissioner's~~ stead.
10 (Source: P.A. 89-508, eff. 7-3-96.)

11 (205 ILCS 105/1-10.065 new)

12 Sec. 1-10.065. Division. "Division" means the Division of
13 Banking within the Department of Financial and Professional
14 Regulation.

15 (205 ILCS 105/3-7) (from Ch. 17, par. 3303-7)

16 Sec. 3-7. Bonds of officers and employees.

17 (a) Every person appointed or elected to any position
18 requiring the receipt, payment, management or use of money
19 belonging to an association, or whose duties permit him to have
20 access to or custody of any of its money or securities or whose
21 duties permit him regularly to make entries in the books or
22 other records of the association, before assuming his duties
23 shall become bonded in some trust or company authorized to

1 issue bonds in this state, or in a fidelity insurance company
2 licensed to do business in this State. Each such bond shall be
3 on a form or forms as the Commissioner shall require and in
4 such amount as the board of directors shall fix and approve.
5 Each such bond, payable to the association, shall be an
6 indemnity for any loss the association may sustain in money or
7 other property through any dishonest or criminal act or
8 omission by any person required to be bonded, committed either
9 alone or in concert with others. Such bond shall be in the form
10 and amount prescribed by the Commissioner, who may at any time
11 require one or more additional bonds. ~~A true copy of every~~
12 ~~bond, including all riders and endorsements executed~~
13 ~~subsequent to the effective date of the bond, shall be filed at~~
14 ~~all times with the Commissioner.~~ Each bond shall provide that a
15 cancellation thereof either by the surety or by the insured
16 shall not become effective unless and until 30 days notice in
17 writing first shall have been given to the Commissioner, unless
18 he shall have approved such cancellation earlier.

19 (b) Nothing contained herein shall preclude the
20 Commissioner from proceeding against an association as
21 provided in this Act should he believe that it is being
22 conducted in an unsafe manner in that the form or amount of
23 bonds so fixed and approved by the board of directors is
24 inadequate to give reasonable protection to the association.

25 (Source: P.A. 85-1271.)

1 (205 ILCS 105/7-1) (from Ch. 17, par. 3307-1)

2 Sec. 7-1. Office of the Commissioner of Savings and
3 Residential Finance abolished. The Office of the Commissioner
4 of Savings and Residential Finance is abolished and its
5 functions are transferred to the Office of Banks and Real
6 Estate as provided in the Division of Banking ~~Office of Banks
7 and Real Estate~~ Act.

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

9 (205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

10 Sec. 7-3. Personnel, records, files, actions and duties,
11 etc.

12 (a) The Secretary shall appoint, subject to applicable
13 provisions of the Personnel Code, a supervisor, such examiners,
14 employees, experts and special assistants as may be necessary
15 to carry out effectively this Act. ~~The Secretary shall require
16 each supervisor, examiner, expert and special assistant
17 employed or appointed by him to give bond, with security to be
18 approved by the Secretary, not less in any case than \$15,000,
19 conditioned for the faithful discharge of his duties. The
20 premium on such bond shall be paid by the Secretary from funds
21 appropriated for that purpose. The bond, along with
22 verification of payment of the premium on such bond, shall be
23 filed in the office of the Secretary of State.~~

24 (b) The Secretary shall have the following duties and
25 powers:

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

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

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

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

12 (5) To cause a suit to be filed in his name to enforce
13 any law of this State that applies to an association,
14 subsidiary of an association, or holding company operating
15 under this Act and shall include the enforcement of any
16 obligation of the officers, directors or employees of any
17 association;

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

20 (7) To establish reasonable and rationally based fee
21 structures for each association and holding company
22 operating under this Act and for their service corporations
23 and subsidiaries, which fees shall include but not be
24 limited to annual fees, application fees, regular and
25 special examination fees, and such other fees as the
26 Secretary establishes and demonstrates to be directly

1 resultant from his responsibilities under this Act and as
2 are directly attributable to individual entities operating
3 under this Act. The Secretary may require payment of the
4 fees under this Act by an electronic transfer of funds or
5 an automatic debit of an account of each of the
6 associations.

7 (Source: P.A. 95-1047, eff. 4-6-09.)

8 (205 ILCS 105/7-4) (from Ch. 17, par. 3307-4)

9 Sec. 7-4. Prohibited activities. The Commissioner, deputy
10 commissioners, and employees of the Office of Banks and Real
11 Estate shall be subject to the restrictions provided in Section
12 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~
13 Act including, without limitation, the restrictions on (i)
14 owning shares of stock or holding any other equity interest in
15 an entity regulated under this Act or in any corporation or
16 company that owns or controls an entity regulated under this
17 Act; (ii) being an officer, director, employee, or agent of an
18 entity regulated under this Act; and (iii) obtaining a loan or
19 accepting a gratuity from an entity regulated under this Act.

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

21 (205 ILCS 105/7-5) (from Ch. 17, par. 3307-5)

22 Sec. 7-5. Examination.

23 (a) The Commissioner, at least once every 18 months, but
24 more often if he deems it necessary or expedient, with or

1 without previous notice, shall cause an examination to be made
2 of the affairs of every association, including any holding
3 company and subsidiary thereof. If an association or holding
4 company has not been audited at least once in the preceding 12
5 months in accordance with this Act, the examination shall
6 include an audit by licensed public accountants employed or
7 appointed by the Commissioner. Such examination shall be made
8 by competent examiners appointed for that purpose who are not
9 officers or agents of, or in any manner interested in, any
10 association or holding company which they examine, except that
11 they may be holders of withdrawable capital. Notwithstanding
12 any other provision of this Act, every eligible association, as
13 defined by regulation, or, if not so defined, to an equivalent
14 extent as would be permitted in the case of a State bank, the
15 Secretary, in lieu of the examination, may accept on an
16 alternating basis the examination made by the appropriate
17 federal banking regulator, or its successor, pursuant to the
18 federal Home Owners' Loan Act, provided the appropriate federal
19 banking regulator, or its successor, has made an examination.

20 (b) The officers, agents or directors of any such
21 association or holding company shall cause the books of the
22 association or holding company to be opened for inspection by
23 the Commissioner or his examiners and otherwise assist in such
24 examination when requested; and for the purpose of examination,
25 the examiner in charge thereof shall have power to administer
26 oaths and to examine under oath any officers, employees, agents

1 or directors of such association or holding company and such
2 other witnesses as he deems necessary relative to the business
3 of the association or holding company.

4 (c) The Commissioner shall make a report of each
5 examination to the board of directors of the association or
6 holding company examined, which report shall be read by each
7 director, who will then execute a signed affidavit to be filed
8 and preserved by the association or holding company
9 acknowledging that he has read the Commissioner's report. If
10 the affairs of the association or holding company are not being
11 conducted in accordance with this Act, the Commissioner shall
12 require the directors, officers or employees to take any
13 necessary corrective action. If the necessary corrective
14 action is not made, the Commissioner may issue a formal order
15 to the directors of the association or holding company
16 delivered either personally or by registered or certified mail,
17 specifying a date which may be immediate or may be at a later
18 date for the performance by the association or holding company
19 of the corrective action. Such order or any part thereof shall
20 be subject to Sections 7-24 through 7-27 of this Act. If the
21 formal order of the Commissioner in whole or in part contains a
22 finding that the business of the association or holding company
23 is being conducted in a fraudulent, illegal or unsafe manner,
24 or that the violation thereof or the continuance by the
25 association or holding company of the practice to be corrected
26 could cause insolvency or substantial dissipation of assets or

1 earnings or the impairment of its capital, such order or part
2 thereof shall be complied with promptly on and after the
3 effective date thereof until modified or withdrawn by the
4 Commissioner, the Board, or modified or terminated by a circuit
5 court. The Commissioner may apply to the circuit court of the
6 county in which the association or holding company is located
7 for enforcement of any such order requiring prompt compliance.
8 If no hearing has been requested within the time specified by
9 this Act, the Commissioner may, at any time within 90 days
10 after the effective date of the order, institute suit in the
11 Circuit Court of Sangamon County or the circuit court of the
12 county in which the association or holding company is located
13 to compel the directors, officers or employees to make the
14 required corrective action. Such court shall, after due process
15 of law, adjudicate the question and enter the proper order or
16 orders and enforce them. In the interests of the members of the
17 association or holding company, the Commissioner may prepare a
18 statement of the condition of the association or holding
19 company and may mail the statement to the members or may
20 require a single publication thereof.

21 (Source: P.A. 85-335.)

22 (205 ILCS 105/7-20) (from Ch. 17, par. 3307-20)

23 Sec. 7-20. Board of Savings Institutions; appointment. The
24 Savings and Loan Board is hereby redesignated the Board of
25 Savings Institutions. The Board shall be composed of 7 persons

1 appointed by the Governor. Four persons shall represent the
2 public interest. Three persons shall have been engaged actively
3 in savings and loan or savings bank management in this State
4 for at least 5 years immediately prior to appointment. Each
5 member of the Board shall be reimbursed for ordinary and
6 necessary expenses incurred in attending the meetings of the
7 Board ~~receive compensation of \$50 per day for each day actually~~
8 ~~and necessarily consumed in the performance of the duties of~~
9 ~~office, plus necessary expenses incurred in the performance of~~
10 ~~those duties.~~ The members of the Board serving immediately
11 before the effective date of this amendatory Act of 1996 shall
12 continue to serve for the balance of their respective terms.
13 Members shall be appointed for 4-year terms to expire on the
14 third Monday in January. Except as otherwise provided in this
15 Section, members of the Board shall serve until their
16 respective successors are appointed and qualified. A member who
17 tenders a written resignation shall serve only until the
18 resignation is accepted by the Chairman. A member who fails to
19 attend 3 consecutive Board meetings without an excused absence
20 shall no longer serve as a member. The Governor shall fill any
21 vacancy by the appointment of a member for the unexpired term
22 in the same manner as in the making of original appointments.

23 (Source: P.A. 89-508, eff. 7-3-96; 89-603, eff. 8-2-96.)

24 (205 ILCS 105/7-22) (from Ch. 17, par. 3307-22)

25 Sec. 7-22. Board of Savings Institutions; powers. The

1 Board shall have the following powers:

2 (a) To advise the Governor and Secretary on all matters
3 relating to the regulation of savings and loan associations and
4 savings banks; consider, hold public or private hearings and
5 act upon appeals from any order, decision or action of the
6 Commissioner by any aggrieved person except as otherwise
7 specifically provided in this Act or the Savings Bank Act;

8 (b) (Blank) ~~To advise the Governor and the Commissioner~~
9 ~~upon appointments and employment of personnel in connection~~
10 ~~with the supervision of savings and loan associations and~~
11 ~~savings banks; and~~

12 (c) To advise the Governor on legislation proposed to amend
13 this Act, the Savings Bank Act, or any related Act.

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

15 (205 ILCS 105/10-1) (from Ch. 17, par. 3310-1)

16 Sec. 10-1. Appointment of a receiver following taking of
17 custody ~~Commissioner to appoint receiver. If the Commissioner,~~
18 ~~after taking custody of an association,~~ the Secretary
19 determines that the appointment of a receiver is appropriate,
20 then the Secretary shall follow the provisions regarding
21 receivership outlined under this Article ~~under the Section of~~
22 ~~this Act concerning Commissioner's Authority to Take Custody,~~
23 ~~finds that any one or more of the reasons for taking custody~~
24 ~~continues to exist through the period of his custody, then he~~
25 ~~shall appoint any qualified person, firm or corporation as~~

~~receiver or coreceiver of such association or trust for the purpose of liquidation. In the case of an insured association, he may appoint the insurance corporation or its nominee as such receiver or as a coreceiver; and the insurance corporation may be permitted to serve without bond. The receiver shall take possession of and title to the books, records and assets of every description of the association or trust.~~

(Source: P.A. 84-543.)

(205 ILCS 105/10-15 new)

Sec. 10-15. Secretary's proceedings exclusive. Except by the authority of the Secretary, represented by the Attorney General, or the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act, no complaint shall be filed or proceedings commenced in any court for the dissolution of, the winding up of the affairs of, or the appointment of a receiver for any association on the grounds that:

(1) it is insolvent;

(2) its capital is impaired or it is otherwise in an unsound condition;

(3) its business is being conducted in an unlawful, fraudulent, or unsafe manner;

(4) it is unable to continue operations; or

(5) its examination has been obstructed or impaired.

(205 ILCS 105/10-20 new)

1 Sec. 10-20. Capital impairment; correction.

2 (a) If the Secretary, with respect to an association,
3 finds:

4 (1) its capital is impaired or it is otherwise in an
5 unsound condition;

6 (2) its business is being conducted in an unlawful
7 manner, including without limitation in violation of any
8 provision of this Act, or in a fraudulent or unsafe manner;

9 (3) it is unable to continue operations; or

10 (4) its examination has been obstructed or impeded;

11 then the Secretary may give notice to the board of directors of
12 his or her finding or findings. If the situation so found by
13 the Secretary shall not be corrected to his or her satisfaction
14 within a period of at least 60 but no more than 180 days after
15 receipt of that notice, which period shall be determined by the
16 Secretary and set forth in the notice, then the Secretary, at
17 the termination of that period, may take possession and control
18 of the association and its assets as provided for in this Act
19 provided for the purpose of examination, reorganization or
20 liquidation through receivership.

21 (b) If the Secretary has given notice to the board of
22 directors of his or her findings, as provided in subsection (a)
23 of this Section, and the time period prescribed in that notice
24 has expired, then the Secretary may extend the time period
25 prescribed in that notice for such period as the Secretary
26 deems appropriate.

1 (205 ILCS 105/10-25 new)

2 Sec. 10-25. Capital impairment; emergency. If, in addition
3 to a finding as provided in Section 10-20 of this Act, the
4 Secretary is of the opinion and finds that an emergency exists
5 that may result in serious losses to the depositors or the
6 inability of the association to continue in operations, meet
7 the demands of its depositors, or pay its obligations in the
8 normal course of business, he or she may, in his or her
9 discretion, without having given the notice provided for in
10 Section 10-20 of this Act, and whether or not proceedings under
11 Section 10-20 of this Act have been instituted or are then
12 pending, take possession and control of the association and its
13 assets for the purpose of examination, reorganization, or
14 liquidation through receivership.

15 (205 ILCS 105/10-30 new)

16 Sec. 10-30. Secretary's possession; power. The Secretary
17 may take possession and control of an association and its
18 assets by posting upon the premises a notice reciting that the
19 Secretary is assuming possession pursuant to this Act and the
20 time when his or her possession shall be deemed to commence,
21 which time shall not pre-date the posting of the notice.
22 Promptly after taking possession and control of an association,
23 if the Federal Deposit Insurance Corporation is not appointed
24 as receiver, the Secretary shall file a copy of the notice

1 posted upon the premises in the circuit court in the county in
2 which the association is located, and thereupon the clerk of
3 such court shall note the filing of the notice upon the records
4 of the court, and shall enter such cause as a court action upon
5 the dockets of such court under the name and style of "In the
6 matter of the possession and control of the Secretary of
7 (insert the name of such association)", and thereupon the court
8 wherein such cause is docketed shall be vested with
9 jurisdiction to hear and determine all issues and matters
10 pertaining to or connected with the Secretary's possession and
11 control of such association as provided in this Act, and such
12 further issues and matters pertaining to or connected with the
13 Secretary's possession and control as may be submitted to such
14 court for its adjudication by the Secretary. When the Secretary
15 has taken possession and control of an association and its
16 assets, he or she shall be vested with the full powers of
17 management and control, including without limitation the
18 following:

19 (1) the power to continue or to discontinue the
20 business;

21 (2) the power to stop or to limit the payment of its
22 obligations; provided, however, with respect to a
23 qualified financial contract between any party and an
24 association or a branch or agency of which the Secretary
25 has taken possession and control, which party has a
26 perfected security interest in collateral or other valid

1 lien or security interest in collateral enforceable
2 against third parties pursuant to a security arrangement
3 related to that qualified financial contract, the party may
4 retain all of the collateral and upon repudiation or
5 termination of that qualified financial contract in
6 accordance with its terms apply the collateral in
7 satisfaction of any claims secured by the collateral; in no
8 event shall the total amount so applied exceed the global
9 net payment obligation, if any;

10 (3) the power to collect and to use its assets and to
11 give valid receipts and acquittances;

12 (4) the power to employ and to pay any necessary
13 assistants;

14 (5) the power to execute any instrument in the name of
15 the association;

16 (6) the power to commence, defend, and conduct in its
17 name any action or proceeding in which it may be a party;

18 (7) the power, upon the order of the court, to sell and
19 convey its assets in whole or in part, and to sell or
20 compound bad or doubtful debts upon such terms and
21 conditions as may be fixed in such order;

22 (8) the power, upon the order of the court, to make and
23 to carry out agreements with other associations or with the
24 United States or any agency thereof that shall insure the
25 association's deposits, in whole or in part, for the
26 payment or assumption of the association's liabilities, in

1 whole or in part, and to transfer assets and to make
2 guaranties, in whole or in part, and to transfer assets and
3 to make guaranties in connection therewith;

4 (9) the power, upon the order of the court, to borrow
5 money in the name of the association and to pledge its
6 assets as security for the loan;

7 (10) the power to terminate his or her possession and
8 control by restoring the association to its board of
9 directors;

10 (11) the power to reorganize the association as
11 provided in this Act;

12 (12) the power to appoint a receiver and to order
13 liquidation of the association as provided in this Act; and

14 (13) the power, upon the order of the court and without
15 the appointment of a receiver, to determine that the
16 association has been closed for the purpose of liquidation
17 without adequate provision being made for payment of its
18 depositors, and thereupon the association shall be deemed
19 to have been closed on account of inability to meet the
20 demands of its depositors.

21 As soon as practical after taking possession, the Secretary
22 shall make his or her examination of the condition of the
23 association and an inventory of the assets. Unless the time
24 shall be extended by order of the court, and unless the
25 Secretary shall have otherwise settled the affairs of an
26 association pursuant to the provisions of this Act, at the

1 termination of 30 days after the time of taking possession and
2 control of an association for the purpose of examination,
3 reorganization, or liquidation through receivership, the
4 Secretary shall either terminate his or her possession and
5 control by restoring the association to its board of directors
6 or appoint a receiver and order the liquidation of the
7 association as provided in this Act. All necessary and
8 reasonable expenses of the Secretary's possession and control
9 and of its reorganization shall be borne by the association and
10 may be paid by the Secretary from its assets. If the Federal
11 Deposit Insurance Corporation is appointed by the Secretary as
12 receiver of an association, or the Federal Deposit Insurance
13 Corporation takes possession of the association, then the
14 receivership proceedings and the powers and duties of the
15 Federal Deposit Insurance Corporation shall be governed by the
16 Federal Deposit Insurance Act and regulations promulgated
17 under that Act rather than the provisions of this Act.

18 (205 ILCS 105/10-35 new)

19 Sec. 10-35. Secretary's possession; limitation of actions.
20 Except when the Federal Deposit Insurance Corporation has taken
21 possession of the association or is acting as receiver, if the
22 Secretary has taken possession and control of an association
23 and its assets, then there shall be a postponement until 6
24 months after the commencement of the possession of the date
25 upon which any period of limitation fixed by a statute or

1 agreement would otherwise expire on a claim or right of action
2 of the association, or upon which an appeal must be taken or a
3 pleading or other document must be filed by the association in
4 any pending action or proceeding. No judgment, lien, levy,
5 attachment, or other similar legal process shall be enforced
6 upon or satisfied in whole or in part from any asset of the
7 association while it is in the possession of the Secretary,
8 except upon the order of the court referred to in Section 10-30
9 entered in due course pursuant to Section 10-90 of this Act.
10 The provisions of this Section shall continue to apply and
11 shall govern notwithstanding the appointment of and the
12 possession by a receiver pursuant to Section 10-55 of this Act.

13 (205 ILCS 105/10-40 new)

14 Sec. 10-40. Reorganization. The Secretary, while in
15 possession and control of an association and its assets, after
16 according a hearing to interested parties as he or she may
17 determine and upon the order of the court, may propose a
18 reorganization plan. Such reorganization plan shall become
19 effective only (1) when the requirements of Section 10-45 are
20 satisfied, and (2) when, after reasonable notice of such
21 reorganization, as the case may require (A) depositors and
22 other creditors of such association representing at least 75%
23 in amount of its total deposits and other liabilities as shown
24 by the books of the association, (B) stockholders owning at
25 least two-thirds of its outstanding capital stock as shown by

1 the books of the association, or (C) both depositors and other
2 creditors representing at least 75% in amount of the total
3 deposits and other liabilities and stockholders owning at least
4 two-thirds of its outstanding capital stock as shown by the
5 books of the association, shall have consented in writing to
6 the plan of reorganization; provided, however, that claims of
7 depositors or other creditors that will be satisfied in full on
8 demand under the provisions of the plan of reorganization shall
9 not be included among the total deposits and other liabilities
10 of the association in determining the 75% required under this
11 Section. When such reorganization becomes effective, all
12 books, records, and assets of the association shall be disposed
13 of in accordance with the provisions of the plan, and the
14 affairs of the association shall be conducted by its board of
15 directors in the manner provided by the plan and under the
16 conditions, restrictions, and limitations prescribed by the
17 Secretary. In any reorganization approved and effective as
18 provided in this Section, all depositors and other creditors
19 and stockholders of the association, whether or not they shall
20 have consented to such plan of reorganization, shall be fully
21 and in all respects subject to and bound by its provisions, and
22 claims of all depositors and other creditors shall be treated
23 as if they have consented to the plan of reorganization. A
24 department, agency, or political subdivision of this State
25 holding a claim that will not be paid in full is authorized to
26 participate in a plan of reorganization as any other creditor

1 and shall be subject to and bound by its provisions as any
2 other creditor.

3 (205 ILCS 105/10-45 new)

4 Sec. 10-45. Requirements of reorganization plan. A plan of
5 reorganization for an association shall not be proposed under
6 this Act unless:

7 (1) the plan is feasible and fair to all classes of
8 depositors, creditors and stockholders;

9 (2) the face amount of the interest accorded to any
10 class of depositors, creditors, and stockholders under the
11 plan does not exceed the value of the assets upon
12 liquidation less the full amount of the claims of all prior
13 classes, subject, however, to any fair adjustment for new
14 capital that any class will pay in under the plan;

15 (3) the plan assures the removal of any director,
16 officer, or employee responsible for any unsound or
17 unlawful action or the existence of an unsound condition;

18 (4) any merger or consolidation provided by the plan
19 conforms to the requirements of this Act; and

20 (5) any reorganized association provided by the plan
21 conforms to the requirements of this Act for the
22 organization of an association.

23 (205 ILCS 105/10-50 new)

24 Sec. 10-50. Reorganization; emergency. Whenever, in the

1 course of reorganization, supervening conditions render the
2 plan of reorganization unfair or its execution impractical, the
3 Secretary may modify the plan, provided the modification is
4 with the written consent of the depositors and other creditors
5 representing at least 75% in amount of the total deposits and
6 other liabilities that are impaired or lessened by the
7 modification, or may, provided the Federal Deposit Insurance
8 has not been appointed, appoint a receiver for liquidation as
9 provided in this Act.

10 (205 ILCS 105/10-55 new)

11 Sec. 10-55. Appointment of receiver; court proceeding.

12 (a) If the Secretary determines, which determination may be
13 made at the time of or any time subsequent to his or her taking
14 possession and control of an association and its assets, that
15 no practical possibility exists to reorganize the association
16 after reasonable efforts have been made and that it should be
17 liquidated through receivership, then the Secretary shall
18 appoint a receiver and require of the receiver a bond and
19 security as the Secretary deems proper, and the Secretary,
20 represented by the Attorney General, shall, if the Federal
21 Deposit Insurance Corporation is not acting as receiver, file a
22 complaint for the dissolution or winding up of the affairs of
23 an association in the circuit court of the county where such
24 association is located.

25 (b) Unless the Federal Deposit Insurance Corporation is

1 acting as receiver for the association, the Secretary, upon
2 taking possession and control of an association and its assets,
3 may and, if he or she has not previously done so, shall,
4 immediately upon filing a complaint for dissolution, make an
5 examination of the affairs of the trust department of the
6 association or appoint a corporate fiduciary or other suitable
7 person to make the examination as the Secretary's agent. The
8 examination shall be conducted in accordance with and pursuant
9 to the authority granted under Section 5-2 of the Corporate
10 Fiduciary Act and the corporate fiduciary or other suitable
11 person conducting the examination shall have and may exercise
12 on behalf of the Secretary all of the powers and authority
13 granted to the Secretary. The report of examination shall, to
14 the extent reasonably possible, identify those governing
15 instruments with specific instructions concerning the
16 appointment of a successor fiduciary. A copy of the report
17 shall be filed in any dissolution proceeding filed by the
18 Secretary. The reasonable fees and necessary expenses of the
19 examining corporate fiduciary or other suitable person, as
20 approved by the Secretary or as recommended by the Secretary
21 and approved by the court if a dissolution proceeding has been
22 filed, shall be borne by the subject association and shall have
23 the same priority for payment as the reasonable and necessary
24 expenses of the Secretary in conducting an examination.

25 As soon as reasonably can be done, the Secretary, if he or
26 she deems it advisable, shall seek the advice and instruction

1 of the court concerning the removal of the corporate fiduciary
2 as to all of its fiduciary accounts and the appointment of a
3 successor fiduciary, which may be the examining corporate
4 fiduciary, to take over and administer all of the fiduciary
5 accounts being administered by the trust department of the
6 association. The corporate fiduciary or other suitable person
7 appointed to make the examination shall make a proper
8 accounting, in the manner and scope as determined by the
9 Secretary to be practical and advisable under the
10 circumstances, on behalf of the trust department of the
11 association and no guardian ad litem need be appointed to
12 review the accounting.

13 (205 ILCS 105/10-60 new)

14 Sec. 10-60. Notice of receivership. Upon appointing a
15 receiver, other than the Federal Deposit Insurance
16 Corporation, and upon the filing of a complaint for the
17 dissolution or winding up of the affairs of an association, the
18 Secretary shall cause notice to be given in that newspaper as
19 he or she directs once each week for 12 consecutive weeks
20 calling on all persons who may have claims against such
21 association to present the same to such receiver and to make
22 legal proof thereof and notifying all such persons and all to
23 whom it may concern of the filing of a complaint for the
24 dissolution or winding up of the affairs of the association and
25 stating the name and location of the court. All persons who may

1 have claims against the association and the receiver to whom
2 the persons have presented their claims may present them to the
3 clerk of the court, and the allowance or disallowance of the
4 claims by the court in connection with the proceedings shall be
5 deemed an adjudication in a court of competent jurisdiction.

6 (205 ILCS 105/10-65 new)

7 Sec. 10-65. Receiver's powers; duties. Other than the
8 Federal Deposit Insurance Corporation, which shall derive its
9 powers and perform its duties pursuant to the Federal Deposit
10 Insurance Act and regulations promulgated thereunder, the
11 receiver for an association, under the direction of the
12 Secretary, shall have the power and authority and is charged
13 with the duties and responsibilities as follows:

14 (1) He or she shall take possession of and, for the
15 purpose of the receivership, the title to the books,
16 records, and assets of every description of the
17 association.

18 (2) He or she shall proceed to collect all debts, dues,
19 and claims belonging to the association.

20 (3) He or she shall file with the Secretary a copy of
21 each report that he or she makes to the court, together
22 with other reports and records as the Secretary may
23 require.

24 (4) He or she shall have authority to sue and defend in
25 his or her own name with respect to the affairs, assets,

1 claims, debts, and choses in action of the association.

2 (5) He or she shall have authority, and it shall be his
3 or her duty, to surrender to the customers of such
4 association their private papers and valuables left with
5 the association for safekeeping, upon satisfactory proof
6 of ownership.

7 (6) He or she shall have authority to redeem or take
8 down collateral hypothecated by the association to secure
9 its notes or other evidence of indebtedness whenever the
10 Secretary deems it to the best interest of the creditors of
11 the association to do so.

12 (7) Whenever he or she finds it necessary in his or her
13 opinion to use and employ money of the association in order
14 to protect fully and benefit the association, by the
15 purchase or redemption of any property, real or personal,
16 in which the association may have any rights by reason of
17 any bond, mortgage, assignment, or other claim thereto, he
18 or she may certify the facts together with his or her
19 opinions as to the value of the property involved, and the
20 value of the equity the association may have in the
21 property to the Secretary, together with a request for the
22 right and authority to use and employ so much of the money
23 of the association as may be necessary to purchase the
24 property, or to redeem the same from a sale if there was a
25 sale, and if such request is granted, the receiver may use
26 so much of the money of the association as the Secretary

1 may have authorized to purchase the property at such sale.

2 (8) He or she shall deposit daily all moneys collected
3 by him or her in any state or national association selected
4 by the Secretary, who may require of (and the association
5 so selected may furnish) the depository satisfactory
6 securities or satisfactory surety bond for the safekeeping
7 and prompt payment of the money so deposited. The deposits
8 shall be made in the name of the Secretary in trust for the
9 association and be subject to withdrawal upon his or her
10 order or upon the order of persons as the Secretary may
11 designate. The moneys may be deposited without interest,
12 unless otherwise agreed. However, if any interest was paid
13 by such depository, it shall accrue to the benefit of the
14 particular trust to which the deposit belongs.

15 (9) He or she shall do such things and take steps from
16 time to time under the direction and approval of the
17 Secretary as may reasonably appear to be necessary to
18 conserve the association's assets and secure the best
19 interests of the creditors of the association.

20 (10) He or she shall record any judgment of dissolution
21 entered in a dissolution proceeding and then deliver to the
22 Secretary a certified copy thereof, together with all books
23 of accounts and ledgers of the association for
24 preservation.

1 Sec. 10-70. Receiver's powers; court directions. Upon the
2 order of the court where the Secretary's complaint for the
3 dissolution or winding up of the affairs of the association was
4 filed, the receiver for the association shall have the power
5 and authority and is charged with the duties and
6 responsibilities as follows:

7 (1) He or she may sell and compound all bad and
8 doubtful debts on such terms as the court shall direct.

9 (2) He or she may sell the real and personal property
10 of the association on such terms as the court shall direct.

11 (3) He or she may petition the court for the authority
12 to borrow money, and to pledge the assets of the
13 association as security therefor, whereupon the practice
14 and procedure shall be as follows:

15 (A) Upon the filing of the petition, the court
16 shall set a date for the hearing of the petition and
17 shall prescribe the form and manner of the notice to be
18 given to the officers, stockholders, creditors, or
19 other persons interested in such association.

20 (B) Upon a hearing, any officer, stockholder,
21 creditor, or person interested shall have the right to
22 be heard.

23 (C) If the court grants such authority, then the
24 receiver may borrow money and issue evidences of
25 indebtedness therefor and may secure the payment of
26 such loan by the mortgage, pledge, transfer in trust,

1 or hypothecation of any or all property and assets of
2 such association, whether real, personal, or mixed,
3 superior to any charge thereon for the expenses of
4 liquidation.

5 (D) Loans may be obtained in such amounts upon such
6 terms and conditions and with provisions for repayment
7 as may be deemed necessary or expedient.

8 (E) Loans may be obtained for the purpose of
9 facilitating liquidation, protecting or preserving the
10 assets, expediting the making of distributions to
11 depositors and other creditors, providing for the
12 expenses of administration and liquidation, and in
13 aiding in the reopening or reorganization of such
14 association or its merger or consolidation with
15 another association, or in the sale of its assets.

16 (F) The receiver shall be under no personal
17 obligation to repay any such loan and shall have
18 authority to take any action necessary or proper to
19 consummate such loan and to provide for the repayment
20 thereof, and may, when required, give bond for the
21 faithful performance of all undertakings in connection
22 therewith.

23 (G) Prior to petitioning the court for authority to
24 make any loan, the receiver may make application for or
25 negotiate any loan subject to obtaining an order of the
26 court approving the same.

1 (4) He or she may make and carry out agreements with
2 other associations or with the United States or any agency
3 thereof that has insured the association's deposits, in
4 whole or in part, for the payment or assumption of the
5 association's liabilities, in whole or in part, and he or
6 she may transfer assets and make guaranties in connection
7 therewith.

8 (5) After the expiration of 12 weeks after the first
9 publication of the Secretary's notice as provided in
10 Section 10-60, he or she shall file with the court a
11 correct list of all creditors of the association, as shown
12 by its books, who have not presented their claims and the
13 amount of their respective claims after allowing all just
14 credits, deductions and set-offs as shown by the books of
15 the association. Claims filed shall be deemed proven,
16 unless objections are filed thereto by a party or parties
17 interested therein within the time fixed by the court.

18 (6) At the termination of his or her administration, he
19 or she shall petition the court for the entry of a judgment
20 of dissolution. After a hearing upon notice as the court
21 may prescribe, the court may enter a judgment of
22 dissolution whereupon the association's charter is
23 terminated.

24 The provisions of this Section do not apply to the Federal
25 Deposit Insurance Corporation as receiver, which shall derive
26 its powers and perform its duties pursuant to the Federal

1 Deposit Insurance Act.

2 (205 ILCS 105/10-75 new)

3 Sec. 10-75. Change of receiver. At any time after a
4 receiver, other than the Federal Deposit Insurance
5 Corporation, is appointed by the Secretary, whenever
6 two-thirds of the creditors of an association petition the
7 Secretary for the appointment of any person nominated by them
8 as receiver, who is a reputable person and a resident of the
9 county in which such association is located, it shall be the
10 duty of the Secretary to make such appointment and all rights
11 and duties of his or her predecessor shall at once devolve upon
12 such appointee. The Secretary may remove any receiver appointed
13 by him or her, except the Federal Deposit Insurance Corporation
14 or such receiver as shall have been appointed through
15 nomination by the creditors. Such a receiver may be removed by
16 the court upon a petition for his or her removal filed by the
17 Secretary after hearing had upon such notice as the court may
18 prescribe. Upon the death, inability to act, resignation, or
19 removal of a receiver, the Secretary may appoint his or her
20 successor and, upon such appointment, all rights and duties of
21 his predecessor shall at once devolve upon such appointee.

22 (205 ILCS 105/10-80 new)

23 Sec. 10-80. Insured deposits; subrogation. The right of an
24 agency of the United States insuring deposits to be subrogated

1 to the rights of depositors upon payment of their claim shall
2 not be less extensive than the law of the United States
3 requires as a condition of the authority to issue insurance or
4 make the payment.

5 (205 ILCS 105/10-85 new)

6 Sec. 10-85. Expenses and fees. All expenses of a
7 receivership, including reasonable receiver's and attorney's
8 fees, approved by the Secretary shall be paid out of the assets
9 of the association. All expenses of any preliminary or other
10 examination into the condition of any such association or
11 receivership and all expenses incident to and in connection
12 with the possession and control of the association and its
13 assets for the purpose of examination, reorganization, or
14 liquidation through receivership shall be paid out of the
15 assets of that association. The payment authorized under this
16 Section may be made by the Secretary with moneys and property
17 of the association in his or her possession and control and
18 shall have priority over all claims.

19 (205 ILCS 105/10-90 new)

20 Sec. 10-90. Dividends; dissolution. From time to time
21 during a receivership other than a receivership conducted by
22 the Federal Deposit Insurance Corporation, the Secretary shall
23 make and pay from moneys of the association a ratable dividend
24 on all claims as may be proved to his or her satisfaction or

1 adjudicated by the court. Claims so proven or adjudicated shall
2 bear interest at the rate of 3% per annum from the date of the
3 appointment of the receiver to the date of payment, but all
4 dividends on a claim shall be applied first to principal. In
5 computing the amount of any dividend to be paid, if the
6 Secretary deems it desirable in the interests of economy of
7 administration and to the interest of the association and its
8 creditors, he or she may pay up to the amount of \$10 of each
9 claim or unpaid portion thereof in full. As the proceeds of the
10 assets of the association are collected in the course of
11 liquidation, the Secretary shall make and pay further dividends
12 on all claims previously proven or adjudicated. After one year
13 from the entry of a judgment of dissolution, all unclaimed
14 dividends shall be remitted to the State Treasurer in
15 accordance with the Uniform Disposition of Unclaimed Property
16 Act, together with a list of all unpaid claimants, their last
17 known addresses, and the amounts unpaid.

18 (205 ILCS 105/10-95 new)

19 Sec. 10-95. Validation of dividends; destruction of
20 records. In all cases where the Secretary, prior to this
21 Section taking effect, has made ratable dividends of money on
22 claims that have been proven to the satisfaction of the
23 Secretary or adjudicated in any court of this State, the
24 dividends are hereby ratified and confirmed and made valid and
25 legal in all respects. All records of receiverships heretofore

1 and hereafter received by the Secretary or by a receiver
2 appointed by the Secretary shall be held by the Secretary or
3 such receiver for the period of 2 years after the close of the
4 receivership and, at the termination of the 2-year period, may
5 then be destroyed.

6 (205 ILCS 105/10-100 new)

7 Sec. 10-100. Judicial review. Whenever the Secretary shall
8 have taken possession and control of an association and its
9 assets for the purpose of examination, reorganization, or
10 liquidation through receivership, or whenever the Secretary
11 shall have appointed a receiver for an association, other than
12 the Federal Deposit Insurance Corporation, and filed a
13 complaint for the dissolution or for the winding up of the
14 affairs of an association, and the association denies the
15 grounds for such actions, it may, at any time within 10 days,
16 apply to the Circuit Court of Sangamon County, Illinois, to
17 enjoin further proceedings in the premises; and such court
18 shall cite the Secretary to show cause why further proceedings
19 should not be enjoined, and if the court shall find that such
20 grounds do not exist, the court shall make an order enjoining
21 the Secretary and any receiver acting under his or her
22 direction from all further proceedings on account of such
23 alleged grounds, provided that neither the 10 days allowed by
24 this Section for judicial review nor the pendency of any
25 proceedings for judicial review shall operate to defer, delay,

1 impede, or prevent the payment or acquisition by the Federal
2 Deposit Insurance Corporation of the deposit liabilities of the
3 association that are insured by the Federal Deposit Insurance
4 Corporation, and during said period allowed for judicial review
5 and during the pendency of any proceedings for judicial review
6 under this Section, the Secretary or, as the case may be, the
7 receiver shall make available to the Federal Deposit Insurance
8 Corporation the facilities in or of the association and books,
9 records, and other relevant data of the association as may be
10 necessary or appropriate to enable the Federal Deposit
11 Insurance Corporation to pay out or to acquire the insured
12 deposit liabilities of the association, and said Federal
13 Deposit Insurance Corporation and its directors, officers,
14 agents, and employees, and the Secretary and his agents and
15 employees, including the receiver, if any, shall be free from
16 any liability to the association and its stockholders and
17 creditors for or on account of any matter or thing in this
18 proviso referred to or provided for.

19 Section 30. The Savings Bank Act is amended by changing
20 Sections 1003, 1007.30, 4009, 9001, 9002, 9003, and 9004, by
21 changing the heading to Article 10, and by adding Sections
22 1007.57, 10011, 10015, 10020, 10025, 10030, 10035, 10040,
23 10045, 10050, 10055, 10060, 10065, 10070, 10075, 10080, 10085,
24 10090, 10095, and 10100 as follows:

1 (205 ILCS 205/1003) (from Ch. 17, par. 7301-3)

2 Sec. 1003. Administration. This Act shall be administered
3 by the Commissioner of Banks and Real Estate as provided in the
4 Division of Banking ~~Office of Banks and Real Estate~~ Act.

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

6 (205 ILCS 205/1007.30) (from Ch. 17, par. 7301-7.30)

7 Sec. 1007.30. "Commissioner" means the Secretary of
8 Financial and Professional Regulation ~~Commissioner of Banks~~
9 ~~and Real Estate~~ or a person authorized by the Secretary
10 ~~Commissioner~~, the Division of Banking ~~Office of Banks and Real~~
11 ~~Estate~~ Act, or this Act to act in the Secretary's
12 ~~Commissioner's~~ stead.

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

14 (205 ILCS 205/1007.57 new)

15 Sec. 1007.57. Division. "Division" means the Division of
16 Banking within the Department of Financial and Professional
17 Regulation.

18 (205 ILCS 205/4009) (from Ch. 17, par. 7304-9)

19 Sec. 4009. Bonds of officers and directors.

20 (a) Every person appointed or elected to any position
21 requiring the receipt, payment, management, or use of money
22 belonging to a savings bank or whose duties permit or require
23 access to or custody of any of the savings bank's money or

1 securities or whose duties permit the regular making of entries
2 in the books or other records of the savings bank shall become
3 bonded in some trust or company authorized to issue bonds in
4 this State or in a fidelity insurance company licensed to do
5 business in this State before assuming any duties. Each bond
6 shall be on a form or forms as the Commissioner shall require
7 and in the amount as the board of directors shall fix and
8 approve. Each bond, payable to the savings bank, shall be an
9 indemnity for any loss the savings bank may sustain in money or
10 other property through any dishonest or criminal act or
11 omission by any person required to be bonded, committed either
12 alone or in concert with others. The bond shall be in the form
13 and amount prescribed by the Commissioner, who may at any time
14 require one or more additional bonds. ~~A true copy of every~~
15 ~~bond, including all riders and endorsements executed~~
16 ~~subsequent to the effective date of the bond, shall be filed at~~
17 ~~all times with the Commissioner.~~ Each bond shall provide that a
18 cancellation thereof either by the surety or by the insured
19 shall not become effective unless and until 30 days notice in
20 writing first shall have been given to the Commissioner, unless
21 he shall have approved the cancellation earlier.

22 (b) Nothing contained in this Section shall preclude the
23 Commissioner from proceeding against a savings bank as provided
24 in this Act should he believe that it is being conducted in an
25 unsafe manner in that the form or amount of bonds so fixed and
26 approved by the board of directors is inadequate to give

1 reasonable protection to the savings bank.

2 (Source: P.A. 86-1213.)

3 (205 ILCS 205/9001) (from Ch. 17, par. 7309-1)

4 Sec. 9001. Personnel, records, files, actions, and duties.

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

17 (Source: P.A. 86-1213.)

18 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

19 Sec. 9002. Powers of Secretary. The Secretary shall have
20 the following powers and duties:

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

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

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

4 (4) To cause a suit to be filed in his name to enforce any
5 law of this State that applies to savings banks, their service
6 corporations, subsidiaries, affiliates, or holding companies
7 operating under this Act, including the enforcement of any
8 obligation of the officers, directors, agents, or employees of
9 any savings bank.

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

12 (6) To establish a reasonable fee structure for savings
13 banks and holding companies operating under this Act and for
14 their service corporations and subsidiaries. The fees shall
15 include, but not be limited to, annual fees, application fees,
16 regular and special examination fees, and other fees as the
17 Secretary establishes and demonstrates to be directly
18 resultant from the Secretary's responsibilities under this Act
19 and as are directly attributable to individual entities
20 operating under this Act. The aggregate of all fees collected
21 by the Secretary on and after the effective date of this Act
22 shall be paid promptly after receipt of the same, accompanied
23 by a detailed statement thereof, into the Savings and
24 Residential Finance Regulatory Fund subject to the provisions
25 of Section 7-19.1 of the Illinois Savings and Loan Act of 1985
26 including without limitation the provision for credits against

1 regulatory fees. The amounts deposited into the Fund shall be
2 used for the ordinary and contingent expenses of the Office of
3 Banks and Real Estate. Nothing in this Act shall prevent
4 continuing the practice of paying expenses involving salaries,
5 retirement, social security, and State-paid insurance of State
6 officers by appropriation from the General Revenue Fund. The
7 Secretary may require payment of the fees under this Act by an
8 electronic transfer of funds or an automatic debit of an
9 account of each of the savings banks.

10 (Source: P.A. 95-1047, eff. 4-6-09.)

11 (205 ILCS 205/9003) (from Ch. 17, par. 7309-3)

12 Sec. 9003. Prohibited activities. The Commissioner, deputy
13 commissioners, and employees of the Office of Banks and Real
14 Estate shall be subject to the restrictions provided in Section
15 2.5 of the Division of Banking ~~Office of Banks and Real Estate~~
16 Act including, without limitation, the restrictions on (i)
17 owning shares of stock or holding any other equity interest in
18 an entity regulated under this Act or in any corporation or
19 company that owns or controls an entity regulated under this
20 Act; (ii) being an officer, director, employee, or agent of an
21 entity regulated under this Act; and (iii) obtaining a loan or
22 accepting a gratuity from an entity regulated under this Act.

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

24 (205 ILCS 205/9004) (from Ch. 17, par. 7309-4)

1 Sec. 9004. Examination.

2 (a) At least once every 18 months or more often if it is
3 deemed necessary or expedient, the Commissioner shall examine
4 the books, records, operations, and affairs of each savings
5 bank operating under this Act. In the course of the
6 examination, the Commissioner shall also examine in the same
7 manner all entities, companies, and individuals which or whom
8 the Commissioner determines may have a relationship with the
9 savings bank or any subsidiary or entity affiliated with it, if
10 the relationship may adversely affect the affairs, activities,
11 and safety and soundness of the savings bank, including: (i)
12 companies controlled by the savings bank; (ii) entities,
13 including companies controlled by the company, individual, or
14 individuals that control the savings bank; and (iii) the
15 company or other entity which controls or owns the savings
16 bank. For purposes of this subsection, the Commissioner shall
17 deem it necessary or expedient to conduct an examination more
18 often than every 18 months if a required report from a savings
19 bank indicates a material change in financial condition or a
20 material violation of a law or regulation. In that event, the
21 Commissioner shall initiate an examination within 30 days of
22 receipt of that information. In the event that the condition is
23 grounds for taking custody of the savings bank under Section
24 10001 of this Act, the examination shall be initiated
25 immediately. Notwithstanding any other provision of this Act,
26 every savings bank, as defined by rule, or, if not defined, to

1 the same extent as would be permitted in the case of a State
2 bank, the Secretary, in lieu of the examination, may accept on
3 an alternating basis the examination made by the eligible
4 savings bank's appropriate federal banking agency pursuant to
5 Section 111 of the Federal Deposit Insurance Corporation
6 Improvement Act of 1991, provided the appropriate federal
7 banking agency has made an examination.

8 (b) The Commissioner shall examine to determine:

9 (1) Quality of financial condition, including safety
10 and soundness and investment and loan quality.

11 (2) Compliance with this Act and other applicable
12 statutes and regulations.

13 (3) Quality of management policies.

14 (4) Overall safety and soundness of the savings bank,
15 its parent, subsidiaries, and affiliates.

16 (5) Remedial actions required to correct and to restore
17 compliance with applicable statutes, regulations, and
18 proper business policies.

19 (c) The Commissioner shall promulgate regulations to
20 implement and administer this Section.

21 (d) If a savings bank, its holding company, or any of its
22 corporate subsidiaries has not been audited at least once in
23 the 12 months prior to the Commissioner's examination, the
24 Commissioner shall cause an audit of the savings bank's books
25 and records to be made by an independent licensed public
26 accountant selected by the Commissioner from a list composed of

1 certified public accountants who have experience in savings
2 bank audits. The cost of the audit shall be paid for by the
3 entity being audited.

4 (e) The Commissioner or the Commissioner's examiners or
5 other formally designated agents are authorized to administer
6 oaths and to examine and to take and preserve testimony under
7 oath as to anything in the affairs or ownership of any savings
8 bank or institution or affiliate thereof.

9 (Source: P.A. 86-1213.)

10 (205 ILCS 205/Art. 10 heading)

11 ARTICLE 10. Involuntary Liquidation ~~Custody and~~
12 ~~Conservatorship~~

13 (205 ILCS 205/10011 new)

14 Sec. 10011. Appointment of a receiver following taking of
15 custody. If, following the taking of custody of a savings bank,
16 the Secretary determines that the appointment of a receiver is
17 appropriate, then the provisions of this Article shall apply.

18 (205 ILCS 205/10015 new)

19 Sec. 10015. Secretary's proceedings exclusive. Except by
20 the authority of the Secretary, represented by the Attorney
21 General, or the Federal Deposit Insurance Corporation pursuant
22 to the Federal Deposit Insurance Act, no complaint shall be
23 filed or proceedings commenced in any court for the dissolution

1 of, the winding up of the affairs of, or the appointment of a
2 receiver for any savings bank on the grounds that:

3 (1) it is insolvent;

4 (2) its capital is impaired or it is otherwise in an
5 unsound condition;

6 (3) its business is being conducted in an unlawful,
7 fraudulent or unsafe manner;

8 (4) it is unable to continue operations; or

9 (5) its examination has been obstructed or impaired.

10 (205 ILCS 205/10020 new)

11 Sec. 10020. Capital impairment; correction.

12 (a) If the Secretary, with respect to a savings bank,
13 shall find:

14 (1) its capital is impaired or it is otherwise in an
15 unsound condition;

16 (2) its business is being conducted in an unlawful
17 manner, including, without limitation, in violation of any
18 provisions of this Act, or in a fraudulent or unsafe
19 manner;

20 (3) it is unable to continue operations; or

21 (4) its examination has been obstructed or impeded;

22 then the Secretary may give notice to the board of directors of
23 his or her finding or findings. If the situation so found by
24 the Secretary shall not be corrected to his or her satisfaction
25 within a period of at least 60 but no more than 180 days after

1 receipt of the notice, which period shall be determined by the
2 Secretary and set forth in the notice, then the Secretary, at
3 the termination of that period, may take possession and control
4 of the savings bank and its assets as provided for in this Act
5 for the purpose of examination, reorganization, or liquidation
6 through receivership.

7 (b) If the Secretary has given notice to the board of
8 directors of his or her findings, as provided in subsection
9 (a), and the time period prescribed in that notice has expired,
10 the Secretary may extend the time period prescribed in that
11 notice for such period as the Secretary deems appropriate.

12 (205 ILCS 205/10025 new)

13 Sec. 10025. Capital impairment; emergency. If, in addition
14 to a finding as provided in Section 10020 of this Act, the
15 Secretary is of the opinion and finds that an emergency exists
16 that may result in serious losses to the depositors or the
17 inability of the savings bank to continue in operations, meet
18 the demands of its depositors, or pay its obligations in the
19 normal course of business, he or she may, in his or her
20 discretion, without having given the notice provided for in
21 Section 10020, and whether or not proceedings under Section
22 10020 have been instituted or are then pending, take possession
23 and control of the savings bank and its assets for the purpose
24 of examination, reorganization, or liquidation through
25 receivership.

1 (205 ILCS 205/10030 new)

2 Sec. 10030. Secretary's possession; power. The Secretary
3 may take possession and control of a savings bank and its
4 assets by posting upon the premises a notice reciting that the
5 Secretary is assuming possession pursuant to this Act and the
6 time when his or her possession shall be deemed to commence,
7 which time shall not pre-date the posting of the notice.
8 Promptly after taking possession and control of a savings bank,
9 if the Federal Deposit Insurance Corporation is not appointed
10 as receiver, the Secretary shall file a copy of the notice
11 posted upon the premises in the circuit court in the county in
12 which the savings bank is located, and thereupon the clerk of
13 such court shall note the filing of the notice upon the records
14 of the court, and shall enter such cause as a court action upon
15 the dockets of such court under the name and style of "In the
16 matter of the possession and control of the Secretary of
17 (insert the name of such savings bank)", and thereupon the
18 court wherein the cause is docketed shall be vested with
19 jurisdiction to hear and determine all issues and matters
20 pertaining to or connected with the Secretary's possession and
21 control of the savings bank as provided in this Act, and such
22 further issues and matters pertaining to or connected with the
23 Secretary's possession and control as may be submitted to the
24 court for its adjudication by the Secretary. When the Secretary
25 has taken possession and control of a savings bank and its

1 assets, then he or she shall be vested with the full powers of
2 management and control, including without limitation the
3 following:

4 (1) the power to continue or to discontinue the
5 business;

6 (2) the power to stop or to limit the payment of its
7 obligations; provided, however with respect to a qualified
8 financial contract between any party and a savings bank or
9 a branch or agency of which the Secretary has taken
10 possession and control, which party has a perfected
11 security interest in collateral or other valid lien or
12 security interest in collateral enforceable against third
13 parties pursuant to a security arrangement related to that
14 qualified financial contract, the party may retain all of
15 the collateral and upon repudiation or termination of that
16 qualified financial contract in accordance with its terms
17 apply the collateral in satisfaction of any claims secured
18 by the collateral; in no event shall the total amount so
19 applied exceed the global net payment obligation, if any;

20 (3) the power to collect and to use its assets and to
21 give valid receipts and acquittances therefore;

22 (4) the power to employ and to pay any necessary
23 assistants;

24 (5) the power to execute any instrument in the name of
25 the savings bank;

26 (6) the power to commence, defend, and conduct in its

1 name any action or proceeding in which it may be a party;

2 (7) the power, upon the order of the court, to sell and
3 convey its assets in whole or in part, and to sell or
4 compound bad or doubtful debts upon terms and conditions as
5 may be fixed in such order;

6 (8) the power, upon the order of the court, to make and
7 to carry out agreements with other savings banks or with
8 the United States or any agency thereof that shall insure
9 the savings bank's deposits, in whole or in part, for the
10 payment or assumption of the savings bank's liabilities, in
11 whole or in part, and to transfer assets and to make
12 guaranties, in whole or in part, and to transfer assets and
13 to make guaranties in connection therewith;

14 (9) the power, upon the order of the court, to borrow
15 money in the name of the savings bank and to pledge its
16 assets as security for the loan;

17 (10) the power to terminate his or her possession and
18 control by restoring the savings bank to its board of
19 directors;

20 (11) the power to reorganize the savings bank as
21 provided in this Act;

22 (12) the power to appoint a receiver and to order
23 liquidation of the savings bank as provided in this Act;
24 and

25 (13) the power, upon the order of the court and without
26 the appointment of a receiver, to determine that the

1 savings bank has been closed for the purpose of liquidation
2 without adequate provision being made for payment of its
3 depositors, and thereupon the savings bank shall be deemed
4 to have been closed on account of inability to meet the
5 demands of its depositors.

6 As soon as practical after taking possession, the Secretary
7 shall make his or her examination of the condition of the
8 savings bank and an inventory of the assets. Unless the time
9 shall be extended by order of the court, and unless the
10 Secretary shall have otherwise settled the affairs of a savings
11 bank pursuant to the provisions of this Act, at the termination
12 of 30 days from the time of taking possession and control of a
13 savings bank for the purpose of examination, reorganization or
14 liquidation through receivership, the Secretary shall either
15 terminate his or her possession and control by restoring the
16 savings bank to its board of directors or appoint a receiver
17 and order the liquidation of the savings bank as provided in
18 this Act. All necessary and reasonable expenses of the
19 Secretary's possession and control and of its reorganization
20 shall be borne by the savings bank and may be paid by the
21 Secretary from its assets. If the Federal Deposit Insurance
22 Corporation is appointed by the Secretary as receiver of a
23 savings bank, or the Federal Deposit Insurance Corporation
24 takes possession of the savings bank, the receivership
25 proceedings and the powers and duties of the Federal Deposit
26 Insurance Corporation shall be governed by the Federal Deposit

1 Insurance Act and regulations promulgated under that Act rather
2 than the provisions of this Act.

3 (205 ILCS 205/10035 new)

4 Sec. 10035. Secretary's possession; limitation of actions.
5 Except when the Federal Deposit Insurance Corporation has taken
6 possession of the savings bank or is acting as receiver, if the
7 Secretary has taken possession and control of a savings bank
8 and its assets, there shall be a postponement until 6 months
9 after the commencement of the possession of the date upon which
10 any period of limitation fixed by a statute or agreement would
11 otherwise expire on a claim or right of action of the savings
12 bank, or upon which an appeal must be taken or a pleading or
13 other document must be filed by the savings bank in any pending
14 action or proceeding. No judgment, lien, levy, attachment, or
15 other similar legal process shall be enforced upon or satisfied
16 in whole or in part from any asset of the savings bank while it
17 is in the possession of the Secretary, except upon the order of
18 the court referred to in Section 10030 entered in due course
19 pursuant to Section 10090 of this Act. The provisions of this
20 Section shall continue to apply and shall govern
21 notwithstanding the appointment of and the possession by a
22 receiver pursuant to Section 10055 of this Act.

23 (205 ILCS 205/10040 new)

24 Sec. 10040. Reorganization. The Secretary, while in

1 possession and control of a savings bank and its assets, after
2 according the hearing to interested parties as he or she may
3 determine and upon the order of the court, may propose a
4 reorganization plan. The reorganization plan shall become
5 effective only (1) when the requirements of Section 10045 are
6 satisfied, and (2) when, after reasonable notice of such
7 reorganization, as the case may require (A) depositors and
8 other creditors of such savings bank representing at least 75%
9 in amount of its total deposits and other liabilities as shown
10 by the books of the savings bank, (B) stockholders owning at
11 least two-thirds of its outstanding capital stock as shown by
12 the books of the savings bank, or (C) both depositors and other
13 creditors representing at least 75% in amount of the total
14 deposits and other liabilities and stockholders owning at least
15 two-thirds of its outstanding capital stock as shown by the
16 books of the savings bank, shall have consented in writing to
17 the plan of reorganization; provided, however, that claims of
18 depositors or other creditors that will be satisfied in full on
19 demand under the provisions of the plan of reorganization shall
20 not be included among the total deposits and other liabilities
21 of the savings bank in determining the 75% required under this
22 Section. When such reorganization becomes effective, all
23 books, records, and assets of the savings bank shall be
24 disposed of in accordance with the provisions of the plan and
25 the affairs of the savings bank shall be conducted by its board
26 of directors in the manner provided by the plan and under the

1 conditions, restrictions, and limitations prescribed by the
2 Secretary. In any reorganization approved and effective as
3 provided in this Section, all depositors and other creditors
4 and stockholders of the savings bank, whether or not they shall
5 have consented to the plan of reorganization, shall be fully
6 and in all respects subject to and bound by its provisions, and
7 claims of all depositors and other creditors shall be treated
8 as if they have consented to the plan of reorganization. A
9 department, agency, or political subdivision of this State
10 holding a claim that will not be paid in full is authorized to
11 participate in a plan of reorganization as any other creditor
12 and shall be subject to and bound by its provisions as any
13 other creditor.

14 (205 ILCS 205/10045 new)

15 Sec. 10045. Requirements of reorganization plan. A plan of
16 reorganization for a savings bank shall not be proposed under
17 this Act unless all of the following are met:

18 (1) the plan is feasible and fair to all classes of
19 depositors, creditors and stockholders;

20 (2) the face amount of the interest accorded to any
21 class of depositors, creditors and stockholders under the
22 plan does not exceed the value of the assets upon
23 liquidation less the full amount of the claims of all prior
24 classes, subject, however, to any fair adjustment for new
25 capital that any class will pay in under the plan;

1 (3) the plan assures the removal of any director,
2 officer, or employee responsible for any unsound or
3 unlawful action or the existence of an unsound condition;

4 (4) any merger or consolidation provided by the plan
5 conforms to the requirements of this Act; and

6 (5) any reorganized savings bank provided by the plan
7 conforms to the requirements of this Act for the
8 organization of a savings bank.

9 (205 ILCS 205/10050 new)

10 Sec. 10050. Reorganization; emergency. Whenever, in the
11 course of reorganization, supervening conditions render the
12 plan of reorganization unfair or its execution impractical, the
13 Secretary may modify the plan, provided the modification is
14 with the written consent of the depositors and other creditors
15 representing at least 75% in amount of the total deposits and
16 other liabilities which are impaired or lessened by the
17 modification, or may, provided the Federal Deposit Insurance
18 has not been appointed, appoint a receiver for liquidation as
19 provided in this Act.

20 (205 ILCS 205/10055 new)

21 Sec. 10055. Appointment of receiver; court proceeding.

22 (a) If the Secretary determines, which determination may be
23 made at the time of or any time subsequent to his or her taking
24 possession and control of a savings bank and its assets, that

1 no practical possibility exists to reorganize the savings bank
2 after reasonable efforts have been made and that it should be
3 liquidated through receivership, then the Secretary shall
4 appoint a receiver and require of the receiver the bond and
5 security as the Secretary deems proper, and the Secretary,
6 represented by the Attorney General, shall, if the Federal
7 Deposit Insurance Corporation is not acting as receiver, file a
8 complaint for the dissolution or winding up of the affairs of
9 the savings bank in the circuit court of the county where such
10 savings bank is located.

11 (b) Unless the Federal Deposit Insurance Corporation is
12 acting as receiver for the savings bank, the Secretary, upon
13 taking possession and control of a savings bank and its assets,
14 may and, if he or she has not previously done so, shall,
15 immediately upon filing a complaint for dissolution, make an
16 examination of the affairs of the trust department of the
17 savings bank or appoint a corporate fiduciary or other suitable
18 person to make the examination as the Secretary's agent. The
19 examination shall be conducted in accordance with and pursuant
20 to the authority granted under Section 5-2 of the Corporate
21 Fiduciary Act, as now or hereafter amended, and the corporate
22 fiduciary or other suitable person conducting the examination
23 shall have and may exercise on behalf of the Secretary all of
24 the powers and authority granted to the Secretary thereunder.
25 The report of examination shall, to the extent reasonably
26 possible, identify those governing instruments with specific

1 instructions concerning the appointment of a successor
2 fiduciary. A copy of the report shall be filed in any
3 dissolution proceeding filed by the Secretary. The reasonable
4 fees and necessary expenses of the examining corporate
5 fiduciary or other suitable person, as approved by the
6 Secretary or as recommended by the Secretary and approved by
7 the court if a dissolution proceeding has been filed, shall be
8 borne by the subject savings bank and shall have the same
9 priority for payment as the reasonable and necessary expenses
10 of the Secretary in conducting an examination.

11 As soon as reasonably can be done, the Secretary, if he or
12 she deems it advisable, shall seek the advice and instruction
13 of the court concerning the removal of the corporate fiduciary
14 as to all of its fiduciary accounts and the appointment of a
15 successor fiduciary, which may be the examining corporate
16 fiduciary, to take over and administer all of the fiduciary
17 accounts being administered by the trust department of the
18 savings bank. The corporate fiduciary or other suitable person
19 appointed to make the examination shall make a proper
20 accounting, in the manner and scope as determined by the
21 Secretary to be practical and advisable under the
22 circumstances, on behalf of the trust department of the savings
23 bank and no guardian ad litem need be appointed to review the
24 accounting.

1 Sec. 10060. Notice of receivership. Upon appointing a
2 receiver, other than the Federal Deposit Insurance
3 Corporation, and upon the filing of a complaint for the
4 dissolution or winding up of the affairs of a savings bank, the
5 Secretary shall cause notice to be given in such newspaper as
6 he or she directs once each week for twelve consecutive weeks
7 calling on all persons who may have claims against such savings
8 bank to present the same to the receiver and to make legal
9 proof thereof and notifying all such persons and all to whom it
10 may concern of the filing of a complaint for the dissolution or
11 winding up of the affairs of the savings bank and stating the
12 name and location of said court. All persons who may have
13 claims against such savings bank and the receiver to whom the
14 persons have presented their claims may present them to the
15 clerk of the court, and the allowance or disallowance of the
16 claims by the court in connection with such proceedings shall
17 be deemed an adjudication in a court of competent jurisdiction.

18 (205 ILCS 205/10065 new)

19 Sec. 10065. Receiver's powers; duties. Other than the
20 Federal Deposit Insurance Corporation, which shall derive its
21 powers and perform its duties pursuant to the Federal Deposit
22 Insurance Act and regulations promulgated thereunder, the
23 receiver for a savings bank, under the direction of the
24 Secretary, shall have the power and authority and is charged
25 with the duties and responsibilities as follows:

1 (1) He or she shall take possession of and, for the
2 purpose of the receivership, the title to the books,
3 records, and assets of every description of the savings
4 bank.

5 (2) He or she shall proceed to collect all debts, dues
6 and claims belonging to the savings bank.

7 (3) He or she shall file with the Secretary a copy of
8 each report that he or she makes to the court, together
9 with such other reports and records as the Secretary may
10 require.

11 (4) He or she shall have authority to sue and defend in
12 his or her own name with respect to the affairs, assets,
13 claims, debts, and choses in action of the savings bank.

14 (5) He or she shall have authority, and it shall be his
15 or her duty, to surrender to the customers of such savings
16 bank their private papers and valuables left with the
17 savings bank for safekeeping, upon satisfactory proof of
18 ownership.

19 (6) He or she shall have authority to redeem or take
20 down collateral hypothecated by the savings bank to secure
21 its notes or other evidence of indebtedness whenever the
22 Secretary deems it to the best interest of the creditors of
23 the savings bank to do so.

24 (7) Whenever he or she finds it necessary in his or her
25 opinion to use and employ money of the savings bank, in
26 order to protect fully and benefit the savings bank, by the

1 purchase or redemption of any property, real or personal,
2 in which the savings bank may have any rights by reason of
3 any bond, mortgage, assignment, or other claim thereto, he
4 or she may certify the facts together with his or her
5 opinions as to the value of the property involved, and the
6 value of the equity the savings bank may have in the
7 property to the Secretary, together with a request for the
8 right and authority to use and employ so much of the money
9 of the savings bank as may be necessary to purchase the
10 property, or to redeem the same from a sale if there was a
11 sale, and if the request is granted, the receiver may use
12 so much of the money of the savings bank as the Secretary
13 may have authorized to purchase the property at such sale.

14 (8) He or she shall deposit daily all monies collected
15 by him or her in any savings bank selected by the
16 Secretary, who may require of (and the savings bank so
17 selected may furnish) such depository satisfactory
18 securities or satisfactory surety bond for the safekeeping
19 and prompt payment of the money so deposited. The deposits
20 shall be made in the name of the Secretary in trust for the
21 savings bank and be subject to withdrawal upon his or her
22 order or upon the order of such persons as the Secretary
23 may designate. Such monies may be deposited without
24 interest, unless otherwise agreed. However, if any
25 interest was paid by such depository, it shall accrue to
26 the benefit of the particular trust to which the deposit

1 belongs.

2 (9) He or she shall do things and take such steps from
3 time to time under the direction and approval of the
4 Secretary as may reasonably appear to be necessary to
5 conserve the savings bank's assets and secure the best
6 interests of the creditors of the savings bank.

7 (10) He or she shall record any judgment of dissolution
8 entered in a dissolution proceeding and thereupon deliver
9 to the Secretary a certified copy thereof, together with
10 all books of accounts and ledgers of the savings bank for
11 preservation.

12 (205 ILCS 205/10070 new)

13 Sec. 10070. Receiver's powers; court directions. Upon the
14 order of the court wherein the Secretary's complaint for the
15 dissolution or winding up of the affairs of the savings bank
16 was filed, the receiver for the savings bank shall have the
17 power and authority and is charged with the duties and
18 responsibilities as follows:

19 (1) He or she may sell and compound all bad and
20 doubtful debts on terms as the court shall direct.

21 (2) He or she may sell the real and personal property
22 of the savings bank on such terms as the court shall
23 direct.

24 (3) He or she may petition the court for the authority
25 to borrow money, and to pledge the assets of the savings

1 bank as security therefor, whereupon the practice and
2 procedure shall be as follows:

3 (A) Upon the filing of the petition, the court
4 shall set a date for the hearing of the petition and
5 shall prescribe the form and manner of the notice to be
6 given to the officers, stockholders, creditors, or
7 other persons interested in such savings bank.

8 (B) Upon such hearing, any officer, stockholder,
9 creditor, or person interested shall have the right to
10 be heard.

11 (C) If the court grants such authority, then the
12 receiver may borrow money and issue evidences of
13 indebtedness therefor and may secure the payment of
14 such loan by the mortgage, pledge, transfer in trust,
15 or hypothecation of any or all property and assets of
16 such savings bank, whether real, personal, or mixed,
17 superior to any charge thereon for the expenses of
18 liquidation.

19 (D) The loan may be obtained in such amounts upon
20 such terms and conditions, and with provisions for
21 repayment as may be deemed necessary or expedient.

22 (E) The loan may be obtained for the purpose of
23 facilitating liquidation, protecting or preserving the
24 assets, expediting the making of distributions to
25 depositors and other creditors, providing for the
26 expenses of administration and liquidation, and aiding

1 in the reopening or reorganization of such savings bank
2 or its merger or consolidation with another savings
3 bank, or in the sale of its assets.

4 (F) The receiver shall be under no personal
5 obligation to repay any such loan and shall have
6 authority to take any action necessary or proper to
7 consummate such loan and to provide for the repayment
8 thereof, and may, when required, give bond for the
9 faithful performance of all undertakings in connection
10 therewith.

11 (G) Prior to petitioning the court for authority to
12 make any such loan, the receiver may make application
13 for or negotiate any loan subject to obtaining an order
14 of the court approving the same.

15 (4) He or she may make and carry out agreements with
16 other savings banks or with the United States or any agency
17 thereof that has insured the savings bank's deposits, in
18 whole or in part, for the payment or assumption of the
19 savings bank's liabilities, in whole or in part, and he or
20 she may transfer assets and make guaranties in connection
21 therewith.

22 (5) After the expiration of 12 weeks after the first
23 publication of the Secretary's notice as provided in
24 Section 10060, he or she shall file with the court a
25 correct list of all creditors of the savings bank, as shown
26 by its books, who have not presented their claims and the

1 amount of their respective claims after allowing all just
2 credits, deductions and set-offs as shown by the books of
3 the savings bank. Claims that are filed shall be deemed
4 proven, unless objections are filed thereto by a party or
5 parties interested therein within such time as is fixed by
6 the court.

7 (6) At the termination of his or her administration, he
8 or she shall petition the court for the entry of a judgment
9 of dissolution. After a hearing upon such notice as the
10 court may prescribe, the court may enter a judgment of
11 dissolution whereupon the savings bank's charter is
12 terminated. The provisions of this Section do not apply to
13 the Federal Deposit Insurance Corporation as receiver,
14 which shall derive its powers and perform its duties
15 pursuant to the Federal Deposit Insurance Act.

16 (205 ILCS 205/10075 new)

17 Sec. 10075. Change of receiver. At any time after a
18 receiver, other than the Federal Deposit Insurance
19 Corporation, is appointed by the Secretary, whenever
20 two-thirds of the creditors of a savings bank petition the
21 Secretary for the appointment of any person nominated by them
22 as receiver, who is a reputable person and a resident of the
23 county in which such savings bank is located, it shall be the
24 duty of the Secretary to make such appointment and all rights
25 and duties of his or her predecessor shall at once devolve upon

1 such appointee. The Secretary may remove any receiver appointed
2 by him or her, except the Federal Deposit Insurance Corporation
3 or such receiver as shall have been appointed through
4 nomination by the creditors. Such a receiver may be removed by
5 the court upon a petition for his or her removal filed by the
6 Secretary after hearing had upon such notice as the court may
7 prescribe. Upon the death, inability to act, resignation, or
8 removal of a receiver the Secretary may appoint his or her
9 successor and, upon the appointment, all rights and duties of
10 his or her predecessor shall at once devolve upon such
11 appointee.

12 (205 ILCS 205/10080 new)

13 Sec. 10080. Insured deposits; subrogation. The right of an
14 agency of the United States insuring deposits to be subrogated
15 to the rights of depositors upon payment of their claim shall
16 not be less extensive than the law of the United States
17 requires as a condition of the authority to issue such
18 insurance or make such payment.

19 (205 ILCS 205/10085 new)

20 Sec. 10085. Expenses and fees. All expenses of a
21 receivership, including reasonable receiver's and attorney's
22 fees approved by the Secretary shall be paid out of the assets
23 of the savings bank. All expenses of any preliminary or other
24 examination into the condition of any the savings bank or

1 receivership and all expenses incident to and in connection
2 with the possession and control of the bank and its assets for
3 the purpose of examination, reorganization, or liquidation
4 through receivership shall be paid out of the assets of the
5 savings bank. The payment authorized under this Section may be
6 made by the Secretary with moneys and property of the bank in
7 his or her possession and control and shall have priority over
8 all claims.

9 (205 ILCS 205/10090 new)

10 Sec. 10090. Dividends; dissolution. From time to time
11 during a receivership other than a receivership conducted by
12 the Federal Deposit Insurance Corporation, the Secretary shall
13 make and pay from moneys of the savings bank a ratable dividend
14 on all claims as may be proved to his or her satisfaction or
15 adjudicated by the court. Claims so proven or adjudicated shall
16 bear interest at the rate of 3% per annum from the date of the
17 appointment of the receiver to the date of payment, but all
18 dividends on a claim shall be applied first to principal. In
19 computing the amount of any dividend to be paid, if the
20 Secretary deems it desirable in the interests of economy of
21 administration and to the interest of the savings bank and its
22 creditors, he or she may pay up to the amount of \$10 of each
23 claim or unpaid portion thereof in full. As the proceeds of the
24 assets of the savings bank are collected in the course of
25 liquidation, the Secretary shall make and pay further dividends

1 on all claims previously proven or adjudicated. After one year
2 from the entry of a judgment of dissolution, all unclaimed
3 dividends shall be remitted to the State Treasurer in
4 accordance with the Uniform Disposition of Unclaimed Property
5 Act, as now or hereafter amended, together with a list of all
6 unpaid claimants, their last known addresses and the amounts
7 unpaid.

8 (205 ILCS 205/10095 new)

9 Sec. 10095. Validation of dividends; destruction of
10 records. In all cases where the Secretary, prior to this
11 Section taking effect, has made ratable dividends of money on
12 claims that have been proven to the satisfaction of the
13 Secretary or adjudicated in any court of this State, such
14 dividends are hereby ratified and confirmed and made valid and
15 legal in all respects. All records of receiverships heretofore
16 and hereafter received by the Secretary or by a receiver
17 appointed by the Secretary shall be held by the Secretary or
18 the receiver for the period of 2 years after the close of the
19 receivership and, at the termination of the 2-year period, may
20 then be destroyed.

21 (205 ILCS 205/10100 new)

22 Sec. 10100. Judicial review. Whenever the Secretary shall
23 have taken possession and control of a savings bank and its
24 assets for the purpose of examination, reorganization, or

1 liquidation through receivership, or whenever the Secretary
2 shall have appointed a receiver for a savings bank, other than
3 the Federal Deposit Insurance Corporation, and filed a
4 complaint for the dissolution or for the winding up of the
5 affairs of a savings bank, and the savings bank denies the
6 grounds for such actions, it may, at any time within 10 days,
7 apply to the Circuit Court of Sangamon County, Illinois, to
8 enjoin further proceedings in the premises; and such court
9 shall cite the Secretary to show cause why further proceedings
10 should not be enjoined, and if the court shall find that the
11 grounds do not exist, the court shall make an order enjoining
12 the Secretary and any receiver acting under his or her
13 direction from all further proceedings on account of such
14 alleged grounds, provided that neither the 10 days allowed by
15 this Section 10100 for judicial review nor the pendency of any
16 proceedings for judicial review shall operate to defer, delay,
17 impede, or prevent the payment or acquisition by the Federal
18 Deposit Insurance Corporation of the deposit liabilities of the
19 savings bank that are insured by the Federal Deposit Insurance
20 Corporation, and during the period allowed for judicial review
21 and during the pendency of any proceedings for judicial review
22 under this Section 10100, the Secretary or, as the case may be,
23 the receiver shall make available to the Federal Deposit
24 Insurance Corporation such facilities in or of the savings bank
25 and the books, records, and other relevant data of the savings
26 bank as may be necessary or appropriate to enable the Federal

1 Deposit Insurance Corporation to pay out or to acquire the
2 insured deposit liabilities of the savings bank, and said
3 Federal Deposit Insurance Corporation and its directors,
4 officers, agents, and employees, and the Secretary and his
5 agents and employees, including the receiver, if any, shall be
6 free from any liability to the savings bank and its
7 stockholders and creditors for or on account of any matter or
8 thing in this proviso referred to or provided for.

9 Section 35. The Pawnbroker Regulation Act is amended by
10 changing Sections 0.05 and 1 and by adding Section 5.5 as
11 follows:

12 (205 ILCS 510/0.05)

13 Sec. 0.05. Administration of Act.

14 (a) This Act shall be administered by the Commissioner of
15 Banks and Real Estate, except that beginning on the effective
16 date of this amendatory Act of the 96th General Assembly, all
17 references in this Act to the Commissioner of Banks and Real
18 Estate are deemed, in appropriate contexts, to be references to
19 the Secretary of Financial and Professional Regulation, who
20 shall have all of the following powers and duties in
21 administering this Act:

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

24 (2) To issue orders for the purpose of administering

1 the provisions of this Act and any rule promulgated in
2 accordance with this Act.

3 (3) To appoint hearing officers and to hire employees
4 or to contract with appropriate persons to execute any of
5 the powers granted to the Commissioner under this Section
6 for the purpose of administering this Act and any rule
7 promulgated in accordance with this Act.

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

17 (5) To conduct hearings.

18 (6) To impose civil penalties graduated up to \$1,000
19 against any person for each violation of any provision of
20 this Act, any rule promulgated in accordance with this Act,
21 or any order of the Commissioner based upon the seriousness
22 of the violation.

23 (6.5) To initiate, through the Attorney General,
24 injunction proceedings whenever it appears to the
25 Commissioner that any person, whether licensed under this
26 Act or not, is engaged or about to engage in an act or

1 practice that constitutes or will constitute a violation of
2 this Act or any rule prescribed under the authority of this
3 Act. The Commissioner may, in his or her discretion,
4 through the Attorney General, apply for an injunction, and
5 upon a proper showing, any circuit court may enter a
6 permanent or preliminary injunction or a temporary
7 restraining order without bond to enforce this Act in
8 addition to the penalties and other remedies provided for
9 in this Act.

10 (7) To issue a cease and desist order and, for
11 violations of this Act, any order issued by the
12 Commissioner pursuant to this Act, any rule promulgated in
13 accordance with this Act, or any other applicable law in
14 connection with the operation of a pawnshop, to suspend a
15 license issued under this Act for up to 30 days.

16 (8) To determine compliance with applicable law and
17 rules related to the operation of pawnshops and to verify
18 the accuracy of reports filed with the Commissioner, the
19 Commissioner, not more than one time every 2 years, may,
20 but is not required to, conduct a routine examination of a
21 pawnshop, and in addition, the Commissioner may examine the
22 affairs of any pawnshop at any time if the Commissioner has
23 reasonable cause to believe that unlawful or fraudulent
24 activity is occurring, or has occurred, therein.

25 (9) In response to a complaint, to address any
26 inquiries to any pawnshop in relation to its affairs, and

1 it shall be the duty of the pawnshop to promptly reply in
2 writing to such inquiries. The Commissioner may also
3 require reports or information from any pawnshop at any
4 time the Commissioner may deem desirable.

5 (10) To revoke a license issued under this Act if the
6 Commissioner determines that (a) a licensee has been
7 convicted of a felony in connection with the operations of
8 a pawnshop; (b) a licensee knowingly, recklessly, or
9 continuously violated this Act or State or federal law or
10 regulation, a rule promulgated in accordance with this Act,
11 or any order of the Commissioner; (c) a fact or condition
12 exists that, if it had existed or had been known at the
13 time of the original application, would have justified
14 license refusal; ~~or~~ (d) the licensee knowingly submits
15 materially false or misleading documents with the intent to
16 deceive the Commissioner or any other party; or (e) the
17 licensee is unable or ceases to continue to operate the
18 pawnshop.

19 (10.2) To remove or prohibit the employment of any
20 officer, director, or employee who engages or who has
21 engaged in unsafe, unsound, or unlawful activities.

22 (10.7) To prohibit the hiring of employees who have
23 been convicted of a financial crime or any crime involving
24 breach of trust who do not meet exceptions as establish by
25 rule of the Secretary.

26 (11) Following license revocation, to take possession

1 and control of a pawnshop for the purpose of examination,
2 reorganization, or liquidation through receivership and to
3 appoint a receiver, which may be the Commissioner, a
4 pawnshop, or another suitable person.

5 (b) After consultation with local law enforcement
6 officers, the Attorney General, and the industry, the
7 Commissioner may by rule require that pawnbrokers operate video
8 camera surveillance systems to record photographic
9 representations of customers and retain the tapes produced for
10 up to 30 days.

11 (c) Pursuant to rule, the Commissioner shall issue licenses
12 on an annual or multi-year basis for operating a pawnshop. Any
13 person currently operating or who has operated a pawnshop in
14 this State during the 2 years preceding the effective date of
15 this amendatory Act of 1997 shall be issued a license upon
16 payment of the fee required under this Act. New applicants
17 shall meet standards for a license as established by the
18 Commissioner. Except with the prior written consent of the
19 Commissioner, no individual, either a new applicant or a person
20 currently operating a pawnshop, may be issued a license to
21 operate a pawnshop if the individual has been convicted of a
22 felony or of any criminal offense relating to dishonesty or
23 breach of trust in connection with the operations of a
24 pawnshop. The Commissioner shall establish license fees. The
25 fees shall not exceed the amount reasonably required for
26 administration of this Act. It shall be unlawful to operate a

1 pawnshop without a license issued by the Commissioner.

2 (d) In addition to license fees, the Commissioner may, by
3 rule, establish fees in connection with a review, approval, or
4 provision of a service, and levy a reasonable charge to recover
5 the cost of the review, approval, or service (such as a change
6 in control, change in location, or renewal of a license). The
7 Commissioner may also levy a reasonable charge to recover the
8 cost of an examination if the Commissioner determines that
9 unlawful or fraudulent activity has occurred. The Commissioner
10 may require payment of the fees and charges provided in this
11 Act by certified check, money order, an electronic transfer of
12 funds, or an automatic debit of an account.

13 (e) The Pawnbroker Regulation Fund is established as a
14 special fund in the State treasury. Moneys collected under this
15 Act shall be deposited into the Fund and used for the
16 administration of this Act. In the event that General Revenue
17 Funds are appropriated to the Office of the Commissioner of
18 Banks and Real Estate for the initial implementation of this
19 Act, the Governor may direct the repayment from the Pawnbroker
20 Regulation Fund to the General Revenue Fund of such advance in
21 an amount not to exceed \$30,000. The Governor may direct this
22 interfund transfer at such time as he deems appropriate by
23 giving appropriate written notice. Moneys in the Pawnbroker
24 Regulation Fund may be transferred to the Professions Indirect
25 Cost Fund, as authorized under Section 2105-300 of the
26 Department of Professional Regulation Law of the Civil

1 Administrative Code of Illinois.

2 (f) The Commissioner may, by rule, require all pawnshops to
3 provide for the expenses that would arise from the
4 administration of the receivership of a pawnshop under this Act
5 through the assessment of fees, the requirement to pledge
6 surety bonds, or such other methods as determined by the
7 Commissioner.

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

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

14 (205 ILCS 510/1) (from Ch. 17, par. 4651)

15 Sec. 1. (a) Every individual or business entity which lends
16 money on the deposit or pledge of physically delivered personal
17 property, other than property the ownership of which is subject
18 to a legal dispute, securities, printed evidence of
19 indebtedness or printed evidence of ownership of the personal
20 property, or who deals in the purchase of such property on the
21 condition of selling the property back again at a stipulated
22 price, shall be held and is hereby declared and defined to be a
23 pawnbroker. The business of a pawnbroker does not include the
24 lending of money on deposit or pledge of title to property.

25 (b) The Secretary may require employees of pawnshops who

1 have the authority to act in a managerial capacity to obtain a
2 license from the Department. For the purposes of this Section,
3 "managerial capacity" shall mean the ability to direct the
4 operations or activities of the pawnshop. If the Secretary
5 determines a pawnshop employee's duties and responsibilities
6 or other factors amount to acting in a managerial capacity, the
7 Secretary may require licensing. The license shall be valid for
8 2 years. The Secretary may by rule specify the form of the
9 application for licensure, fees to be imposed and conditions
10 for licensure. The licensed employees shall report their places
11 of employment to the Secretary.

12 (Source: P.A. 90-602, eff. 7-1-98.)

13 (205 ILCS 510/5.5 new)

14 Sec. 5.5. Replacement of articles or property; insurance or
15 bond. In the event that any articles or property pledged are
16 lost or rendered inoperable the pawnbroker shall replace the
17 articles or property with identical articles or property,
18 except that if the pawnbroker cannot reasonably obtain
19 identical articles or property, the pawnbroker shall replace
20 the articles or property with like articles or property.

21 No pawnbroker shall conduct business in this State, unless
22 the pawnbroker:

23 (1) maintains insurance coverage equal to at least 2
24 times the aggregate value of the outstanding loans for
25 items held in pawn. Such insurance shall be obtained from

1 an insurance company authorized to do business in Illinois,
2 or;

3 (2) obtains a surety bond issued by an insurance
4 company authorized to do business in this State. The bond
5 shall be in favor of the Secretary of Financial and
6 Professional Regulation. Such bond shall at all times meet
7 or exceed 2 times the aggregate amount of all loans made by
8 the licensee.

9 The pawnbroker shall file a copy of proof of insurance
10 coverage or bond with the Secretary. The bond shall be for the
11 exclusive benefit of any person injured by a pawnbroker's
12 actions or to compensate persons whose property in pledge is
13 lost or rendered inoperable.

14 Whenever the sum of the surety bond is reduced by one or
15 more recoveries or payments, the licensee shall furnish a new
16 or additional bond under this Section, so that the total or
17 aggregate penal sum of the bond or bonds equals the sum
18 required by this Section, or shall furnish an endorsement
19 executed by the surety reinstating the bond to the required
20 penal sum of the bond.

21 The liability for any act or omission that occurs during
22 the term of the surety bond shall be maintained and in effect
23 for at least 6 months after the date on which the surety bond
24 is terminated or canceled. A pawnbroker shall not cancel the
25 insurance coverage or surety bond except upon notice to the
26 Secretary by certified mail, return receipt requested. The

1 cancellation is not effective prior to 30 days after the
2 Secretary receives the notice.

3 (205 ILCS 510/10.5 new)
4 Sec. 10.5. Employee license.

5 Section 40. The Banking Emergencies Act is amended by
6 changing Sections 1 and 2 as follows:

7 (205 ILCS 610/1) (from Ch. 17, par. 1001)

8 Sec. 1. Definitions. As used in this Act, unless the
9 context otherwise requires:

10 (1) "Commissioner" means the officer of this State
11 designated by law to exercise supervision over banks and trust
12 companies, and any other person lawfully exercising such
13 powers, except that beginning on the effective date of this
14 amendatory Act of the 96th General Assembly, all references in
15 this Act to the Commissioner of Banks and Real Estate are
16 deemed, in appropriate contexts, to be references to the
17 Secretary of Financial and Professional Regulation.

18 (2) "Bank" includes commercial banks, savings banks,
19 savings and loan associations, trust companies, and any branch
20 thereof lawfully carrying on the business of banking and, to
21 the extent that the provisions hereof are not inconsistent with
22 and do not infringe upon paramount Federal law, also includes
23 national banks and federal savings banks.

1 (3) "Officers" means the person or persons designated by
2 the board of directors, to act for the bank in carrying out the
3 provisions of this Act or, in the absence of any such
4 designation or of the officer or officers so designated, the
5 president or any other officer currently in charge of the bank
6 or of the office or offices in question.

7 (4) "Office" means any place at which a bank transacts its
8 business or conducts operations related to its business.

9 (5) "Emergency" means any condition or occurrence which may
10 interfere physically with the conduct of normal business
11 operations at one or more or all of the offices of a bank, or
12 which poses an imminent or existing threat to the safety or
13 security of persons or property, or both at one or more or all
14 of the offices of a bank. Without limiting the generality of
15 the foregoing, an emergency may arise as a result of any one or
16 more of the following: natural disasters; civil strife; power
17 failures; computer failures; interruption of communication
18 facilities; robbery or attempted robbery.

19 (6) "Division" means the Division of Banking within the
20 Department of Financial and Professional Regulation.

21 (Source: P.A. 92-483, eff. 8-23-01; 92-651, eff. 7-11-02.)

22 (205 ILCS 610/2) (from Ch. 17, par. 1002)

23 Sec. 2. Power of Commissioner.

24 (a) Whenever the Commissioner is notified by any officer of
25 a bank or by any other means becomes aware that an emergency

1 exists, or is impending, he may, by proclamation, authorize all
2 banks in the State of Illinois to close or alter the hours at
3 any or all of their offices, or if only a bank or banks, or
4 offices thereof, in a particular area or areas of the State of
5 Illinois are affected by the emergency or impending emergency,
6 the Commissioner may authorize only the affected bank, banks,
7 or offices thereof, to close. The office or offices so closed
8 may remain closed until the Commissioner declares, by further
9 proclamation, that the emergency or impending emergency has
10 ended. The Commissioner during an emergency or while an
11 impending emergency exists, which affects, or may affect, a
12 particular bank or banks, or a particular office or offices
13 thereof, but not banks located in the area generally of the
14 said county or municipality, may authorize the particular bank
15 or banks, or office or offices so affected, to close. The
16 office or offices so closed shall remain closed until the
17 Commissioner is notified by a bank officer of the closed bank
18 that the emergency has ended. The Commissioner shall notify, at
19 such time, the officers of the bank that one or more offices,
20 heretofore closed because of the emergency, should reopen and,
21 in either event, for such further time thereafter as may
22 reasonably be required to reopen.

23 (b) Whenever the Secretary ~~Commissioner~~ becomes aware that
24 an emergency exists, or is impending, he or she may, by
25 proclamation, waive any requirements to the notices,
26 applications, or reports required to be filed and authorize any

1 bank organized under the laws of this State, of another state,
2 or of the United States, to open and operate offices in this
3 State, notwithstanding any other laws of this State to the
4 contrary. Any office or offices opened in accordance with this
5 subsection may remain open until the Commissioner declares, by
6 further proclamation, that the emergency or impending
7 emergency has ended. The Department of Financial and
8 Professional Regulation ~~may shall~~ adopt rules to implement this
9 subsection (b).

10 (Source: P.A. 95-77, eff. 8-13-07.)

11 Section 45. The Electronic Fund Transfer Act is amended by
12 changing Section 10 as follows:

13 (205 ILCS 616/10)

14 Sec. 10. Definitions. For purposes of this Act, the words
15 and phrases defined in this Section shall have the meanings
16 ascribed to them unless the context requires otherwise.
17 Whenever the terms "network" and "switch" are used, they shall
18 be deemed interchangeable unless, from the context and facts,
19 the intention is plain to apply only to one type of entity.

20 "Access device" means a card, code, or other means of
21 access to an account, or any combination thereof, that may be
22 used by a customer to initiate an electronic fund transfer at a
23 terminal.

24 "Account" means a demand deposit, savings deposit, share,

1 member, or other customer asset account held by a financial
2 institution.

3 An "affiliate" of, or a person "affiliated" with, a
4 specified person, means a person that directly, or indirectly
5 through one or more intermediaries, controls, is controlled by,
6 or is under common control with, the person specified.

7 "Commissioner" means the Secretary of Financial and
8 Professional Regulation ~~Commissioner of Banks and Real Estate~~
9 or a person authorized by the Secretary ~~Commissioner~~, the
10 Division of Banking ~~Office of Banks and Real Estate Act~~, or
11 this Act to act in the Secretary's ~~Commissioner's~~ stead.

12 "Division" means the Division of Banking within the
13 Department of Financial and Professional Regulation.

14 "Electronic fund transfer" means a transfer of funds, other
15 than a transaction originated by check, draft, or similar paper
16 instrument, that is initiated through a terminal for the
17 purpose of ordering, instructing, or authorizing a financial
18 institution to debit or credit an account.

19 "Financial institution" means a bank established under the
20 laws of this or any other state or established under the laws
21 of the United States, a savings and loan association or savings
22 bank established under the laws of this or any other state or
23 established under the laws of the United States, a credit union
24 established under the laws of this or any other state or
25 established under the laws of the United States, or a licensee
26 under the Consumer Installment Loan Act or the Sales Finance

1 Agency Act.

2 "Interchange transaction" means an electronic fund
3 transfer that results in exchange of data and settlement of
4 funds between 2 or more unaffiliated financial institutions.

5 "Network" means an electronic information communication
6 and processing system that processes interchange transactions.

7 "Person" means a natural person, corporation, unit of
8 government or governmental subdivision or agency, trust,
9 estate, partnership, cooperative, or association.

10 "Seller of goods and services" means a business entity
11 other than a financial institution.

12 "Switch" means an electronic information and communication
13 processing facility that processes interchange transactions on
14 behalf of a network. This term does not include an electronic
15 information and communication processing company (1) that is
16 owned by a bank holding company or an affiliate of a bank
17 holding company and used solely for transmissions among
18 affiliates of the bank holding company or (2) to the extent
19 that the facility, by virtue of a contractual relationship, is
20 used solely for transmissions among affiliates of a bank
21 holding company, regardless of whether the facility is an
22 affiliate of the bank holding company or operates as a switch
23 with respect to one or more networks under an independent
24 contractual relationship.

25 "Terminal" means an electronic device through which a
26 consumer may initiate an interchange transaction. This term

1 does not include (1) a telephone, (2) an electronic device
2 located in a personal residence, (3) a personal computer or
3 other electronic device used primarily for personal, family, or
4 household purposes, (4) an electronic device owned or operated
5 by a seller of goods and services unless the device is
6 connected either directly or indirectly to a financial
7 institution and is operated in a manner that provides access to
8 an account by means of a personal and confidential code or
9 other security mechanism (other than signature), (5) an
10 electronic device that is not accessible to persons other than
11 employees of a financial institution or affiliate of a
12 financial institution, or (6) an electronic device that is
13 established by a financial institution on a proprietary basis
14 that is identified as such and that cannot be accessed by
15 customers of other financial institutions. The Commissioner
16 may issue a written rule that excludes additional electronic
17 devices from the definition of the term "terminal".

18 (Source: P.A. 89-310, eff. 1-1-96; 89-508, eff. 7-3-96.)

19 Section 50. The Corporate Fiduciary Act is amended by
20 changing Sections 1-5.03, 5-1, and 5-10 and by adding Section
21 1-5.075 as follows:

22 (205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

23 Sec. 1-5.03. "Commissioner" means the Secretary of
24 Financial and Professional Regulation ~~Commissioner of Banks~~

1 ~~and Real Estate~~ or a person authorized by the Secretary
2 Commissioner, the Division of Banking ~~Office of Banks and Real~~
3 ~~Estate~~ Act, or this Act to act in the Secretary's
4 ~~Commissioner's~~ stead.

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

6 (205 ILCS 620/1-5.075 new)

7 Sec. 1-5.075. Division. "Division" means the Division of
8 Banking within the Department of Financial and Professional
9 Regulation.

10 (205 ILCS 620/5-1) (from Ch. 17, par. 1555-1)

11 Sec. 5-1. Commissioner's powers. The Commissioner of Banks
12 and Real Estate shall have the following powers and authority
13 and is charged with the duties and responsibilities designated
14 in this Act:

15 (a) To promulgate, in accordance with the Illinois
16 Administrative Procedure Act, reasonable rules for the purpose
17 of administering the provisions of this Act and for the purpose
18 of incorporating by reference rules promulgated by the Federal
19 Deposit Insurance Corporation, the Board of Governors of the
20 Federal Reserve System, the Office of the Comptroller of the
21 Currency, the Office of Thrift Supervision, or their successors
22 that pertain to corporate fiduciaries, including, but not
23 limited to, standards for the operation and conduct of the
24 affairs of corporate fiduciaries;

1 (b) To issue orders for the purpose of administering the
2 provisions of this Act and any rule promulgated in accordance
3 with this Act;

4 (c) To appoint hearing officers to conduct hearings held
5 pursuant to any of the powers granted to the Commissioner under
6 this Section for the purpose of administering this Act and any
7 rule promulgated in accordance with this Act;

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

17 (e) To conduct hearings;

18 (f) To promulgate the form and content of any applications
19 required under this Act;

20 (g) To impose civil penalties of up to \$100,000 ~~\$10,000~~
21 against any person or corporate fiduciary for each violation of
22 any provision of this Act, any rule promulgated in accordance
23 with this Act, any order of the Commissioner or any other
24 action which, in the Commissioner's discretion, is a detriment
25 or impediment to accepting or executing trusts; and

26 (h) To address any inquiries to any corporate fiduciary, or

1 the officers thereof, in relation to its doings and conditions,
2 or any other matter connected with its affairs, and it shall be
3 the duty of any corporate fiduciary or person so addressed, to
4 promptly reply in writing to such inquiries. The Commissioner
5 may also require reports from any corporate fiduciary at any
6 time he may deem desirable.

7 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

8 (205 ILCS 620/5-10) (from Ch. 17, par. 1555-10)

9 Sec. 5-10. Fees; receivership account.

10 (a) There shall be paid to the Commissioner by every
11 corporate fiduciary including each trust company, bank,
12 savings and loan association, and savings bank to which this
13 Act shall apply, reasonable fees that the Commissioner shall
14 assess to recover the costs of administration, certification,
15 examination and supervision of trusts authorized under this
16 Act.

17 (b) In addition to the fees authorized in subsection (a) of
18 this Section the Commissioner shall assess reasonable
19 receivership fees and establish a Non-insured Institutions
20 Receivership ~~Corporate Fiduciary Receivership~~ account in the
21 Bank and Trust Company Fund to provide for the expenses that
22 arise from the administration of the receivership of a
23 corporate fiduciary under this Act. The aggregate of such
24 assessments shall be paid into the Non-insured Institutions
25 Receivership ~~Corporate Fiduciary Receivership~~ account in the

1 Bank and Trust Company Fund. The assessments for this account
2 shall be levied until the sum of \$4,000,000 has been deposited
3 into the account from assessments authorized herein, whereupon
4 the Non-insured Institutions Receivership ~~Corporate Fiduciary~~
5 ~~Receivership~~ account assessment shall be abated. If a
6 receivership of a corporate fiduciary under this Act requires
7 expenditures from this account, assessments may be
8 reinstated until the balance in the Non-insured Institutions
9 Receivership ~~Corporate Fiduciary Receivership~~ account arising
10 from assessments is restored to \$4,000,000.

11 (c) The Commissioner may, by rule, establish a reasonable
12 manner of assessing the receivership assessments under this
13 Section.

14 (Source: P.A. 92-485, eff. 8-23-01.)

15 Section 55. The Residential Mortgage License Act of 1987 is
16 amended by changing Section 4-2 as follows:

17 (205 ILCS 635/4-2) (from Ch. 17, par. 2324-2)

18 Sec. 4-2. Examination; prohibited activities.

19 (a) The business affairs of a licensee under this Act shall
20 be examined for compliance with this Act as often as the
21 Commissioner deems necessary and proper. The Commissioner
22 shall promulgate rules with respect to the frequency and manner
23 of examination. The Commissioner shall appoint a suitable
24 person to perform such examination. The Commissioner and his

1 appointees may examine the entire books, records, documents,
2 and operations of each licensee and its subsidiary, affiliate,
3 or agent, and may examine any of the licensee's or its
4 subsidiary's, affiliate's, or agent's officers, directors,
5 employees and agents under oath. For purposes of this Section,
6 "agent" includes service providers such as accountants,
7 closing services providers, providers of outsourced services
8 such as call centers, marketing consultants, and loan
9 processors, even if exempt from licensure under this Act. This
10 Section does not apply to an attorney's privileged work product
11 or communications.

12 (b) The Commissioner shall prepare a sufficiently detailed
13 report of each licensee's examination, shall issue a copy of
14 such report to each licensee's principals, officers, or
15 directors and shall take appropriate steps to ensure correction
16 of violations of this Act.

17 (c) Affiliates of a licensee shall be subject to
18 examination by the Commissioner on the same terms as the
19 licensee, but only when reports from, or examination of a
20 licensee provides for documented evidence of unlawful activity
21 between a licensee and affiliate benefiting, affecting or
22 deriving from the activities regulated by this Act.

23 (d) The expenses of any examination of the licensee and
24 affiliates shall be borne by the licensee and assessed by the
25 Commissioner as established by regulation.

26 (e) Upon completion of the examination, the Commissioner

1 shall issue a report to the licensee. All confidential
2 supervisory information, including the examination report and
3 the work papers of the report, shall belong to the
4 Commissioner's office and may not be disclosed to anyone other
5 than the licensee, law enforcement officials or other
6 regulatory agencies that have an appropriate regulatory
7 interest as determined by the Commissioner, or to a party
8 presenting a lawful subpoena to the Office of the Commissioner.
9 The Commissioner may immediately appeal to the court of
10 jurisdiction the disclosure of such confidential supervisory
11 information and seek a stay of the subpoena pending the outcome
12 of the appeal. Reports required of licensees by the
13 Commissioner under this Act and results of examinations
14 performed by the Commissioner under this Act shall be the
15 property of only the Commissioner, but may be shared with the
16 licensee. Access under this Act to the books and records of
17 each licensee shall be limited to the Commissioner and his
18 agents as provided in this Act and to the licensee and its
19 authorized agents and designees. No other person shall have
20 access to the books and records of a licensee under this Act.
21 Any person upon whom a demand for production of confidential
22 supervisory information is made, whether by subpoena, order, or
23 other judicial or administrative process, must withhold
24 production of the confidential supervisory information and
25 must notify the Commissioner of the demand, at which time the
26 Commissioner is authorized to intervene for the purpose of

1 enforcing the limitations of this Section or seeking the
2 withdrawal or termination of the attempt to compel production
3 of the confidential supervisory information. The Commissioner
4 may impose any conditions and limitations on the disclosure of
5 confidential supervisory information that are necessary to
6 protect the confidentiality of such information. Except as
7 authorized by the Commissioner, no person obtaining access to
8 confidential supervisory information may make a copy of the
9 confidential supervisory information. The Commissioner may
10 condition a decision to disclose confidential supervisory
11 information on entry of a protective order by the court or
12 administrative tribunal presiding in the particular case or on
13 a written agreement of confidentiality. In a case in which a
14 protective order or agreement has already been entered between
15 parties other than the Commissioner, the Commissioner may
16 nevertheless condition approval for release of confidential
17 supervisory information upon the inclusion of additional or
18 amended provisions in the protective order. The Commissioner
19 may authorize a party who obtained the records for use in one
20 case to provide them to another party in another case, subject
21 to any conditions that the Commissioner may impose on either or
22 both parties. The requestor shall promptly notify other parties
23 to a case of the release of confidential supervisory
24 information obtained and, upon entry of a protective order,
25 shall provide copies of confidential supervisory information
26 to the other parties.

1 (f) The Commissioner, deputy commissioners, and employees
2 of the Office of Banks and Real Estate shall be subject to the
3 restrictions provided in Section 2.5 of the Division of Banking
4 ~~Office of Banks and Real Estate~~ Act including, without
5 limitation, the restrictions on (i) owning shares of stock or
6 holding any other equity interest in an entity regulated under
7 this Act or in any corporation or company that owns or controls
8 an entity regulated under this Act; (ii) being an officer,
9 director, employee, or agent of an entity regulated under this
10 Act; and (iii) obtaining a loan or accepting a gratuity from an
11 entity regulated under this Act.

12 (g) After the initial examination for those licensees whose
13 only mortgage activity is servicing fewer than 1,000 Illinois
14 residential loans, the examination required in subsection (a)
15 may be waived upon submission of a letter from the licensee's
16 independent certified auditor that the licensee serviced fewer
17 than 1,000 Illinois residential loans during the year in which
18 the audit was performed.

19 (Source: P.A. 96-112, eff. 7-31-09.)

20 Section 60. The Foreign Banking Office Act is amended by
21 changing Sections 2.01 and 17 and by adding Section 2.08 as
22 follows:

23 (205 ILCS 645/2.01) (from Ch. 17, par. 2703)

24 Sec. 2.01. "Commissioner" means the Secretary of Financial

1 ~~and Professional Regulation Commissioner of Banks and Real~~
2 ~~Estate~~ or a person authorized by the Secretary Commissioner,
3 the Division of Banking ~~Office of Banks and Real Estate Act,~~ or
4 this Act to act in the Secretary's ~~Commissioner's~~ stead.

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

6 (205 ILCS 645/2.08 new)

7 Sec. 2.08. Division. "Division" means the Division of
8 Banking within the Department of Financial and Professional
9 Regulation.

10 (205 ILCS 645/17) (from Ch. 17, par. 2724)

11 Sec. 17. Fees; examination; receivership. Upon applying
12 for a certificate of authority to open and maintain a banking
13 office, a foreign banking corporation shall pay to the
14 Commissioner an application fee equivalent to the reasonable
15 expenses of examination for a charter payable by a State bank
16 under Section 13 of the Illinois Banking Act.

17 In addition, a foreign banking corporation holding a
18 certificate of authority and maintaining a banking office shall
19 be subject to examination and other fees (comparable to those
20 payable by a State bank) imposed by the Commissioner pursuant
21 to Section 48 of the Illinois Banking Act based on the assets
22 of such foreign banking corporation located in the State of
23 Illinois.

24 (b) In addition to the fees authorized in subsection (a) of

1 this Section, the Secretary shall assess reasonable
2 receivership fees and establish a Non-insured Institutions
3 Receivership account in the Bank and Trust Company Fund to
4 provide for the expenses that arise from the administration of
5 the receivership of a foreign banking corporation under this
6 Act. The aggregate of such assessments shall be paid into the
7 Non-insured Institutions Receivership account in the Bank and
8 Trust Company Fund. The assessments for this account shall be
9 levied until the sum of \$4,000,000 has been deposited into the
10 account from assessments authorized herein, whereupon the
11 Non-insured Institutions Receivership account assessment shall
12 be abated. If a receivership of a non-insured institution under
13 this Act requires expenditures from this account, then
14 assessments may be reinstated until the balance in the
15 Non-insured Institutions Receivership account arising from
16 assessments is restored to \$4,000,000.

17 (c) The Secretary may by rule establish a reasonable manner
18 of assessing the receivership assessments under this Section.

19 (Source: P.A. 88-271; 89-208, eff. 6-1-97.)

20 Section 65. The Foreign Bank Representative Office Act is
21 amended by changing Section 2 as follows:

22 (205 ILCS 650/2) (from Ch. 17, par. 2852)

23 Sec. 2. Definitions. As used in this Act, unless the
24 context requires otherwise:

1 (a) "Commissioner" means the Secretary of Financial and
2 Professional Regulation ~~Commissioner of Banks and Real Estate~~
3 or a person authorized by the Secretary ~~Commissioner~~, the
4 Division of Banking ~~Office of Banks and Real Estate Act~~, or
5 this Act to act in the Secretary's ~~Commissioner's~~ stead.

6 (b) "Foreign bank" means (1) a bank or trust company which
7 is organized under the laws of any state or territory of the
8 United States, including the District of Columbia, other than
9 the State of Illinois; (2) a national bank having its principal
10 place of business in any state or territory of the United
11 States, including the District of Columbia, other than the
12 State of Illinois; or (3) a bank or trust company organized and
13 operating under the laws of a country other than the United
14 States of America.

15 (c) "Representative office" means an office in the State of
16 Illinois at which a foreign bank engages in representational
17 functions but does not conduct a commercial banking business.

18 (d) "Division" means the Division of Banking within the
19 Department of Financial and Professional Regulation.

20 (Source: P.A. 89-364, eff. 8-18-95; 89-508, eff. 7-3-96.)

21 Section 70. The Financial Institution Activity Reporting
22 Act is amended by changing Section 10.25 and by adding Section
23 10.33 as follows:

24 (205 ILCS 680/10.25) (from Ch. 17, par. 7401-10.25)

1 Sec. 10.25. Commissioner. "Commissioner" means the
2 Secretary of Financial and Professional Regulation
3 ~~Commissioner of Banks and Real Estate~~ or a person authorized by
4 the Secretary Commissioner, the Division of Banking ~~Office of~~
5 ~~Banks and Real Estate~~ Act, or this Act to act in the
6 Secretary's Commissioner's stead.

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

8 (205 ILCS 680/10.33 new)

9 Sec. 10.33. Division. "Division" means the Division of
10 Banking within the Department of Financial and Professional
11 Regulation.

12 Section 75. The Real Estate Regulation Transfer Act is
13 amended by changing Sections 5, 10, and 15 as follows:

14 (225 ILCS 456/5)

15 Sec. 5. Transfer of powers.

16 (a) On July 1, 1995, All the rights, powers, and duties
17 vested by the Real Estate License Act of 1983, the Land Sales
18 Registration Act of 1989, and the Illinois Real Estate
19 Time-Share Act in the Department of Professional Regulation
20 shall be transferred to the Office of the Commissioner of
21 Savings and Residential Finance to be hereafter known as the
22 Office of the Commissioner of Savings, Real Estate Professions,
23 and Mortgage Finance. Wherever, in the Real Estate License Act

1 of 1983, the Land Sales Registration Act of 1989, or the
2 Illinois Real Estate Time-Share Act, there is a reference to
3 the Department of Professional Regulation or to an officer,
4 employee, or agent of the Illinois Department of Professional
5 Regulation, that reference, beginning July 1, 1995, means the
6 Office of the Commissioner of Savings, Real Estate Professions,
7 and Mortgage Finance or an officer, employee, or agent of the
8 Office of the Commissioner of Savings, Real Estate Professions,
9 and Mortgage Finance.

10 (b) All books, records, property (real and personal),
11 pending business, and funds pertaining to the rights, powers,
12 and duties transferred from the Department of Professional
13 Regulation under this Act and in the custody of the Department
14 of Professional Regulation on July 1, 1995 shall be delivered
15 and transferred to the Office of the Commissioner of Savings,
16 Real Estate Professions, and Mortgage Finance. All officers and
17 employees of the Department of Professional Regulation on July
18 1, 1995 who devoted substantially all of their time to tasks
19 performed in connection with the Real Estate License Act of
20 1983, the Land Sales Registration Act of 1989, or the Illinois
21 Real Estate Time-Share Act shall on that date become officers
22 and employees of the Office of the Commissioner of Savings,
23 Real Estate Professions, and Mortgage Finance. Notwithstanding
24 the preceding sentence, no rights of State employees under the
25 Personnel Code, the Illinois Pension Code or any pension,
26 retirement, or annuity plan, or any collective bargaining

1 agreement or other contract or agreement are affected by the
2 transfer of rights, powers, and duties under this Act.

3 (c) The provisions of subsections (a) and (b) of this
4 Section are superseded by the applicable transfer and savings
5 provisions of the Division of Banking ~~Office of Banks and Real~~
6 ~~Estate~~ Act.

7 (Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

8 (225 ILCS 456/10)

9 Sec. 10. Savings provisions.

10 (a) Beginning July 1, 1995, the rights, powers, and duties
11 transferred by this Act to the Office of the Commissioner of
12 Savings, Real Estate Professions, and Mortgage Finance shall be
13 vested in and shall be exercised by the Office of the
14 Commissioner of Savings, Real Estate Professions, and Mortgage
15 Finance subject to the provisions of this Act. Each act done in
16 exercise of those rights, powers, and the duties shall have the
17 same legal effect as if done by the Department of Professional
18 Regulation.

19 (b) Beginning July 1, 1995, every person, corporation, or
20 other entity shall be subject to the same obligations and
21 duties and any penalties, civil or criminal, arising from those
22 obligations and duties, and shall have the same rights arising
23 from the exercise of rights, powers, and duties by the Office
24 of the Commissioner of Savings, Real Estate Professions, and
25 Mortgage Finance as if those rights, powers, and duties have

1 been exercised by the Department of Professional Regulation or
2 an officer, employee, or agent of the Department of
3 Professional Regulation.

4 (c) Beginning July 1, 1995, every officer and employee of
5 the Office of the Commissioner of Savings, Real Estate
6 Professions, and Mortgage Finance shall, for any offense, be
7 subject to the same penalty or penalties, civil or criminal, as
8 are prescribed by existing law for the same offense by any
9 officer or employee of the Department of Professional
10 Regulation whose powers or duties were transferred under this
11 Act.

12 (d) Whenever reports or notices are now required to be made
13 or given or papers or documents furnished or served by any
14 person to or upon the Department of Professional Regulation in
15 relation to the powers or duties transferred by this Act, those
16 reports or notices shall, on and after July 1, 1995, be made,
17 given, furnished, or served in the same manner to or upon the
18 Office of the Commissioner of Savings, Real Estate Professions,
19 and Mortgage Finance.

20 (e) This Act does not affect any act done, ratified, or
21 cancelled, or any right occurring or established, or any action
22 or proceeding had or commenced in an administrative, civil, or
23 criminal cause before July 1, 1995, by the Department of
24 Professional Regulation under the Real Estate License Act of
25 1983, the Land Sales Registration Act of 1989, or the Illinois
26 Real Estate Time-Share Act, and those actions or proceedings

1 may be prosecuted and continued by the Office of the
2 Commissioner of Savings, Real Estate Professions, and Mortgage
3 Finance.

4 (f) This Act does affect any license, certificate, permit,
5 or other form of licensure or authorization issued by the
6 Department of Professional Regulation in the exercise of a
7 right, power, or duty that has been transferred to the Office
8 of the Commissioner of Savings, Real Estate Professions, and
9 Mortgage Finance under this Act and all such licenses,
10 certificates, permits, or other form of licensure or
11 authorization shall continue to be valid under the terms and
12 conditions of the Acts under which they were issued or granted
13 and shall become those of the Office of the Commissioner of
14 Savings, Real Estate Professions, and Mortgage Finance.

15 (g) The rules adopted by the Department of Professional
16 Regulation relating to the powers and or duties transferred to
17 the Office of the Commissioner of Savings, Real Estate
18 Professions, and Mortgage Finance under this Act are not
19 affected by this Act, except that on July 1, 1995, those rules
20 become the rules of the Office of the Commissioner of Savings,
21 Real Estate Professions, and Mortgage Finance.

22 (h) The provisions of subsections (a) through (g) of this
23 Section are superseded by the applicable transfer and savings
24 provisions of the Division of Banking ~~Office of Banks and Real~~
25 ~~Estate~~ Act.

26 (Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

1 (225 ILCS 456/15)

2 Sec. 15. Transfer of appropriations. Appropriations to the
3 Department of Professional Regulation from the Real Estate
4 License Administration Fund and the Real Estate Appraisal
5 Administration Fund for State fiscal year 1996 for the purpose
6 of administering and enforcing the Real Estate License Act of
7 1983, the Land Sales Registration Act of 1989, and the Illinois
8 Real Estate Time-Share Act shall be transferred to the Office
9 of the Commissioner of Savings, Real Estate Professions, and
10 Mortgage Finance to be used to conduct those same activities
11 for that fiscal year.

12 The other provisions of this Section are superseded by the
13 applicable transfer provisions of the Division of Banking
14 ~~Office of Banks and Real Estate Act.~~

15 (Source: P.A. 89-23, eff. 7-1-95; 89-508, eff. 7-3-96.)

16 (205 ILCS 105/10-2 rep.)

17 (205 ILCS 105/10-3 rep.)

18 (205 ILCS 105/10-4 rep.)

19 (205 ILCS 105/10-5 rep.)

20 (205 ILCS 105/10-6 rep.)

21 (205 ILCS 105/10-7 rep.)

22 Section 90. The Illinois Savings and Loan Act of 1985 is
23 amended by repealing Sections 10-2, 10-3, 10-4, 10-5, 10-6, and
24 10-7.

1 (205 ILCS 205/9005 rep.)

2 (205 ILCS 205/9007 rep.)

3 (205 ILCS 205/10001 rep.)

4 (205 ILCS 205/10002 rep.)

5 (205 ILCS 205/10003 rep.)

6 (205 ILCS 205/10004 rep.)

7 (205 ILCS 205/10005 rep.)

8 (205 ILCS 205/10006 rep.)

9 (205 ILCS 205/10007 rep.)

10 (205 ILCS 205/10008 rep.)

11 Section 95. The Savings Bank Act is amended by repealing
12 Sections 9005, 9007, 10001, 10002, 10003, 10004, 10005, 10006,
13 10007, and 10008.

14 (205 ILCS 680/Act rep.)

15 Section 100. The Financial Institution Activity Reporting
16 Act is repealed.

17 Section 999. Effective date. This Act takes effect upon
18 becoming law.